

Agenda Item	16.
Report No	PEO 38/17

HIGHLAND COUNCIL

Committee: People Committee

Date: 19 October 2017

Report Title: **Socio-economic Duty consultation**

Report By: Acting Head of Policy

1. Purpose/Executive Summary

- 1.1 The Scottish Government recently asked for views on the introduction of a socio-economic duty in Scotland. A response to the consultation was submitted to the Scottish Government by the due date of 12 September 2017 and requires homologation. The response is attached as Appendix 1.

The report also provides background information which has previously been presented to the Weekly Strategic Meeting and Welfare Reform Working Group. Members can find details the consultation paper and questions at the following link:

<https://beta.gov.scot/publications/consultation-socio-economic-duty/>

2. Recommendations

- 2.1 Members of the People Committee are asked to agree:
- Homologate the consultation response submitted on 12 September (Appendix 1).
 - that as further information is received from the Scottish Government on the requirements of the duty, this will be considered by the People Committee's policy development group.

3 Introduction

- 3.1 The socio-economic duty will place an overarching requirement on strategic public authorities to do more to tackle persistent inequalities of outcome caused by socio-economic disadvantage. The Scottish Government hopes to see improved decision making as a result of introducing the duty that will lead to better outcomes for those experiencing disadvantage. In particular, the duty aims to ensure that key strategic decisions are considered through a lens of inequality and as a result would aim to tackle socio-economic disadvantage and reduce inequality of outcome. The draft definitions note the specific nature of socio-economic disadvantage faced by communities living in remote and rural areas.
- 3.2 Subject to consultation the Scottish Government plans to commence the duty by the end of 2017. The consultation asked for views on: definitions of key terms; which public authorities it should apply to; what public authorities could do to show they are meeting the duty; and how public authorities could approach the links between different duties with a socio-economic focus.

4 Background

- 4.1 The socio-economic duty was included as a provision in the UK Government's Equality Act 2010 but was not commenced along with the other provisions in the Act. In Scotland, following the recommendations of the Smith Commission, the power to commence the duty was included in the Scotland Act 2016. The Fairer Scotland Action Plan published in 2016 set out the Scottish Government's plan to introduce the duty, with time for consultation and associated guidance, by the end of 2017.
- 4.2 The socio-economic duty is one of a number of complementary duties which are placed on the public sector to tackle socio-economic disadvantage, child poverty, equality of opportunity and inequality of outcome.
- 4.3 In Scotland, it is estimated that in 2015-16 880,000 people (17% of the population) were living in poverty, up from the previous year. Overall, it is estimated that 19% of young people in Scotland live in poverty.
- 4.4 In Highland, wages are below the national Scottish average and in remote and rural areas, in particular, they are below the equivalent of the national living wage. This combines in some areas with an over-reliance on seasonal employment and contributes to 'in-work poverty'. Affordable housing and childcare are significant factors in the cost of living in Highland, and we have seen recent increases in fuel poverty in the region.

5 The Socio-economic duty

- 5.1 The requirement of the socio-economic duty is currently defined as:
"An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage".¹

¹ <http://www.legislation.gov.uk/ukpga/2010/15>

Giving 'due regard' will require the named authorities to consider the issues and to give weight to such considerations proportionate to their relevance.

- 5.2 The socio-economic duty is set in the context of wider public sector reform in Scotland informed by the Christie Commission report in 2011. It is one of a number of complementary legislative duties with a socio-economic focus, which include:
- Child Poverty (Scotland) Bill
 - Children and Young People (Scotland) Act 2014
 - Education (Scotland) Act 2016
 - Community Empowerment (Scotland) Act 2015
 - Public Sector Equality Duty
 - Human Rights Act
- 5.3 Socio-economic disadvantage is defined as living in less favourable social and economic circumstances than others in the same society and can include low income and living in a deprived area.
- 5.4 Inequalities of outcome are described as measurable differences in what happens to people throughout their lives, for example life expectancy or educational attainment. It is recognised that there is a complex range of inter-related factors that influence outcomes for individuals, including:
- Institutional, cultural and market structural factors
 - Local and national decisions about budget allocations
 - Particular equality considerations related to protected characteristics
- 5.5 The Scottish Government expects public authorities to focus on communities within particular disadvantaged places, but also within particular disadvantaged communities of interest, such as young people leaving care or disabled people, and also the specific nature of socio-economic disadvantage for people living in rural, remote and island areas.
- 5.6 Scottish Ministers propose that the duty applies to the following Scottish public authorities:
- Scottish Ministers (covering 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)
 - Local Authorities
 - NHS Health Scotland
 - Integration Joint Boards
 - Regional Health Boards
 - The Scottish Police Authority
 - Highlands and Islands Enterprise
 - Scottish Enterprise

6 Meeting the requirements of the duty

- 6.1 The Scottish Government identifies the kind of steps that public authorities could, and in many cases already do, take to demonstrate that they meet the duty:
1. Identifying which strategic decisions public authorities take
 2. Identifying inequalities of outcome caused by socio-economic disadvantage
 3. Exercising the duty during decision-making
 4. Monitoring the impact over the longer term
- 6.2 The Council already undertakes a number of the above requirements, however the introduction of the duty will be an opportunity to reinforce and refine what we do. In particular, for the Council this will mean:

Identifying which strategic decisions the Council takes: The consultation document suggests the Council should identify which strategic decisions are taken as a matter of course as the first step to allow time for evidence gathering and assessment in advance. Decisions of a strategic nature are key, high level decisions, for example those that the Council may require to make about priority and target setting, allocating resources and commissioning services such as Local Development Plans, Housing Strategies City Deals, or strategic care commissioning plans. Giving 'due regard' to such decisions will require the Council to consider the issues and to give weight to such considerations proportionate to their relevance.

- 6.3 **Identifying inequalities of outcome caused by socio-economic disadvantage in Highland:** Highland Council already gives consideration to socio-economic inequalities in many areas including annual budget considerations, welfare reform activities, Housing Strategy. A poverty screening assessment is carried out in addition to equality and rural impact assessments on budget decisions and increasingly on other decision-making matters and policy development. The socio-economic duty does not impose the same requirement as the Public Sector Equality Duty to publish equality impact assessments, however adopting this integrated approach would allow the Council to demonstrate that due regard has been given to the socio-economic duty.

It is recognised that there are complex relationships between the poverty, rural and equality impact assessments and work is being undertaken during 2017 to further integrate these forms of assessment as a 'Community Impact Tool'. As part of this process, consideration should be given by the Council to evidence in the form of both quantitative data such as SIMD/SEP/performance information and qualitative information such as the experiences of people with direct experience of poverty.

- 6.4 **Exercising the duty during Council decision-making:** Going forward, the Council will need to ensure the above approach is implemented during decision making by both staff during the formation of strategic plans and by elected members when considering their adoption. As referred to above, consideration is already given to taking account of poverty impacts, in particular in relation to budget setting proposals; however there will be a need for greater consistency in undertaking and publishing such assessments. This will require awareness to be raised about the the new duty and the need to carry out integrated assessments.

6.5 **Monitoring the impact in Highland over the longer term:** Rather than identify separate monitoring frameworks, the Council should ensure that existing frameworks are used to measure progress to address socio-economic disadvantage. The new Community Planning Arrangements which are currently being rolled out in Highland place tackling inequalities at the heart of the Highland Outcome Improvement Plan and the forthcoming Locality Plans. The Council, NHS Highland and HIE have made a shared commitment in their revised equality outcomes 2017 to work together towards addressing socio-economic disadvantage.

7 Summary of consultation response

7.1 The response which was submitted to the consultation is attached as **Appendix 1**. The requirement to demonstrate that due regard is given to socio-economic disadvantage in strategic decision making is broadly welcomed. Key points to note include:

1 Definitions of key terms: The definitions of key terms (Socio-economic disadvantage; Inequalities of Outcome; Decisions of a strategic nature; Due regard) are reasonable. Including a reference to the specific nature of socio-economic disadvantage for people in rural, remote and island areas is welcome.

2 Application of the duty to named public authorities: The named public authorities are relevant, however, if powers are sought to extend the application of the duty, bodies such as Further and Higher Education bodies and the Scottish Fire and Rescue Service should be added to the list. All statutory Community Planning Partners should be covered by the duty. It should also be clarified whether 'Scottish Ministers' provisions would also include SDS and certain regulatory bodies.

3. Meeting the requirements of the duty: The suggested steps towards meeting the duty are considered reasonable: This includes the suggestion of taking an integrated impact assessment approach. The Council already takes this approach to assessment of budget proposals, but our process could be further developed and applied with greater consistency. There should be clear links between the range of duties to address socio-economic inequality by the Scottish Government and at local level. Guidance on the duty could include a template for an integrated impact assessment, and the Scottish Government should consider extending the scope of its equality evidence finder to include socio-economic data. Where possible existing monitoring frameworks should be used such as the Highland Outcome Improvement Plan, Locality Plans and Children's Services Plan.

4. Links between the socio-economic duty and other duties: It is recommended that guidance for all the linked duties are refreshed to make clear and consistent references and use of terminology. The Scottish Government should consider the development of an integrated assessment approach that can be applied to encourage consistency.

5. Implications

5.1 **Resources:** There are no direct resource implications from the introduction of the socio-economic duty.

5.2 **Legal:** When the duty will come into force, it will be a requirement that named public

bodies give 'due regard' to it.

- 5.3 **Community (Equality, Poverty and Rural):** The implementation of the duty would have a direct implication for the Council to ensure it considers socio-economic matters in key, strategic decisions, and will have a strong link with equality, poverty, rural and human rights impacts.
- 5.4 **Climate Change / Carbon Clever:** There are no Climate Change/Carbon Clever impacts
- 5.5 **Risk:** In the current environment of decreasing budgets, it will become increasingly difficult to mitigate the socio-economic impact of budget reductions on Highland communities. The new duty does not prevent decisions being made but will require the Council to give 'due regard' to socio-economic impact when making such decisions, to consider the issues and to give weight to such considerations proportionate to their relevance.
- 5.6 **Gaelic:** There are no Gaelic implications

Designation: Acting Head of Policy

Date: 12 September 2017

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Appendix 1: Socio-economic Duty: Consultation Response

Socio Economic Duty – Consultation Response

Consultation documents and questions:

<https://beta.gov.scot/publications/consultation-socio-economic-duty/>

QUESTION 1 - The key terms defined in this section are:

- Socio economic disadvantage
- Inequalities of outcome
- Decisions of a strategic nature
- Due regard

Do you agree that the definitions of these are reasonable and should be included within the Scottish Government's forthcoming guidance on the socio-economic duty?

Yes, the draft definitions of the above are reasonable and should be included in the guidance. The inclusion of the specific nature of socio-economic disadvantage for people in rural, remote and island areas is welcomed, as well as the links between equality (communities of interest on the basis of protected characteristics) and inequality.

Guidance on the implementation of the duty should include details and examples of how public bodies can demonstrate that Due Regard is given, and the level of strategic decisions that the duty is expected to apply to.

Associated guidance should contain clear definitions, perhaps as a glossary, cover the four terms above but also other key terms, such as 'communities of interest', 'communities of place/geography'

QUESTION 2A - Do you agree that the socio-economic duty should apply to the Scottish public authorities named here? If not, please specify which ***you do not think*** it should apply to and why?

Yes, they should be applied to the named authorities

QUESTION 2B - 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.

If there are powers to extend the application (the consultation implies this requires changes to legislation), and due to their impact on life chances, the following should be considered for addition:

- Further and Higher Education establishments.

- Scottish Fire and Rescue Service are a key Community Planning Partner in Highland and have a commitment to meeting the needs of the most vulnerable in society.

Clarity should be sought as to whether non-departmental public bodies are to be included under the Scottish Ministers provisions, eg Skills Development Scotland; Scottish Funding Council and regulatory bodies such as The Care Inspectorate, Scottish Housing Regulator.

The accompanying guidance should make reference that the role of Education Authorities can be encompassed in that of Local Authorities – given they are listed separately for the specific duties of the Equality Act 2010.

QUESTION 3A - Do you have any comments on the steps set out in SECTION 3?

The steps in Section 3 are reasonable and clear. Making adjustments to the current impact assessment process would appear a sensible approach.

QUESTION 3B - What other actions could public authorities take to demonstrate that they are meeting the duty?

The Community Empowerment Act places key duties on Community Planning Partners to develop outcomes to address socio-economic inequality. This work will be pivotal in demonstrating public authorities are meeting the duty. However Partnerships are not intrinsically covered by the duty and not all public bodies involved in Partnerships are covered by the duty. It would be helpful to include all statutory Community Planning Partners as listed bodies in the duty. There should be clear links between the Socio-economic duty and requirement to focus on inequality in the development of Local Outcome Improvement Plans and Locality Plans. (also Children's Services Plans and Adult Services Plans) and the proposed duties contained in the Child Poverty Bill around local reporting on addressing child poverty.

Should the Scottish Government adopt the approach to amend its own impact assessments to an integrated process this could help to inform the implementation of national decisions which are then taken forward at local strategic level.

Expanding the Scottish Government's Equality Evidence Finder to incorporate socio-economic data, or establishing a similar separate tool, would be helpful.

QUESTION 3C - 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?

Highland Council already takes account of equality, poverty and rural impacts into account when considering budget setting. Example or guidance on integrating such assessments would be helpful.

Identifying and providing detailed evidence and analysis at local level is an issue we face, especially in relation rural poverty and poverty faced by communities of interest in rural areas.

QUESTION 3D - Can you offer examples of how public authorities and others have made best use of the expertise of people with direct experience of poverty?

During May 2014, Highland Council's Community Services surveyed a sample of tenants most likely to be affected by the changes from the current welfare benefit system to Universal Credit. The aim of the survey was to notify tenants of the forthcoming changes to the welfare benefit system and collect data on:

- Digital inclusion
- Financial inclusion
- Vulnerability and support needs

The results of this survey have identified a number of key areas of support which need to be explored further.

QUESTION 3E - What kind of guidance and support on meeting the duty would be most useful for public authorities?

It would be helpful to have guidance available in advance of the implementation of the duty with accompanying awareness activities, for example a national e-learning module would be helpful. Case studies such as those included in the consultation document are helpful, especially if they were to reflect actual scenarios.

Guidance should use clear language that is consistent with other related duties. Guidance could include a range of suggested sources of data and examples of models of community engagement.

As mentioned above, Scottish Government could expand the scope of the Equality Evidence Finder to include socio-economic data or adopt a similar approach to socio-economic data national approach to an integrated impact assessment toolkit could be developed to support this and related duties

QUESTION 3F - 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?

Existing frameworks should be used where possible; in Highland key frameworks are likely to be through the Highland Outcome Improvement Plan and Locality Plans, Children's Planning Framework.

QUESTION 4A - 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 Government do to make sure that the links between the different duties are managed effectively within organisations?

Guidance for the different duties should be updated to reflect the relationship between them, as all guidance is online this should not be unrealistic, and should be consistent in language and context.

Templates for an integrated impact assessments approach would be helpful incorporating a list of factors to consider in relation to the duty.

The guidance should include information on the regularity role of the Equality and Human Rights Commission and be clear that the duty is not a route for individuals to take forward complaints of discrimination.

QUESTION 4B - Can you offer examples of good practice in taking an integrated approach to issues such as poverty, equality, and human rights?

In recent years, the Highland Council has taken an integrated assessment approach to the consideration of budget proposals, screening each proposal for potential equality, rural and poverty impact. This approach has involved local partner agencies in the impact discussions as well as cross-service representation from the Council.

The Highland Council has also undertaken a range of activities in relation to addressing the impact of Welfare Reform through its Welfare Reform Working Group. This includes Council services working with partners such as NHS Highland and local CAB offices to develop a money advice service provided by CAB to new mothers, and supporting tailored welfare advice clinics across the Highlands including support for specialist training for CAB workers to provide advice to people with mental ill health.