

Report

Report to:	Equal Opportunities Forum
Date of Meeting:	3 October 2018
Report by:	Executive Director (Finance and Corporate Resources)

Subject:	Fairer Scotland Interim Guidance for Public Bodies
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1. Purpose of Report

1.1. The purpose of the report is to:-

- ◆ provide an update regarding the progress being made by the Scottish Government in respect of the implementation of interim guidance for the Fairer Scotland Duty which came into force in April 2018

2. Recommendation(s)

2.1. The Forum is asked to approve the following recommendation(s):-

- (1) that the content of the report be noted.

3. Background

- 3.1. In the summer of 2017, the Scottish Government published a consultation on the introduction of the Socio-Economic Duty for the public sector. The Duty is now known as the Fairer Scotland Duty in order to signal clearly what it aims to do.
- 3.2. The new Duty, which is an un-commenced section of the Equality Act 2010, came into force in Scotland on 1 April 2018. Under the terms of the Duty, public authorities, including South Lanarkshire Council, require to do more to tackle the inequalities caused by socio-economic disadvantage and evidence this. In particular, the Duty aims to make sure that strategic decisions about the most important issues are carefully thought through so they are as effective as they can be in tackling socio-economic disadvantage and reducing inequalities.
- 3.3. The [interim guidance](#) which was published recently builds on existing good practice and provides public bodies with some flexibility as to how to meet the Duty, initially during a three year implementation phase.
- ## 4. Fairer Scotland Duty Interim Guidance
- 4.1. The intention underpinning the Fairer Scotland Duty is to reduce the inequalities of outcome caused by socio-economic disadvantage. It is outcome focused and puts 'tackling inequality genuinely at the heart of key decision making'. Bodies subject to the Duty are also covered by the Public Sector Equality Duty (PSED) and Human Rights Act. The Fairer Scotland Duty provides an opportunity to build on and improve practice on equality and human rights.

- 4.2. The Scottish Government states that the guidance is 'interim because we want final guidance to be developed with public bodies, grounded on experience of working on the Duty and reflecting the good practice that's already in place'. The Duty will be subject to a three year implementation phase where we'll be working with the Equality and Human Rights Commission and the Duty regulator to make sure the Duty delivers better decision making.'

5. Socio Economic Disadvantage

- 5.1. The interim guidance defines socio-economic disadvantage as 'living on below average incomes; with little accumulated wealth; leading to greater material deprivation; restricting the ability to access basic goods and services and socio-economic background.'
- 5.2. The interim guidance asserts that socio-economic disadvantage can be experienced in both places (people who are bound together because of where they reside, work or visit) and communities of interest (groups of people who share an identity, for example the Afro-Caribbean community, or those who share an experience, or those who share one or more protected characteristic listed in the Equality Act), leading to further negative outcomes or social exclusion.
- 5.3. The interim guidance considers, in detail, low income, low wealth, material deprivation and area deprivation. Public Bodies will require to meet the following key requirements when making major decisions at a strategic level:-
- ◆ to show 'due regard' as to how they could reduce inequalities which should be considered in a similar way to the PSED, based on principles of active consideration, participation and proportionality
 - ◆ to publish a short written assessment showing how they've done this. The [interim guidance](#) (Sections 19-24 Meeting the Duty Day to Day) sets out an example process for meeting the Duty on a day-to-day basis similar to an equality impact assessment (EqIA)

6. Impact of the Fairer Scotland Duty on Strategic Level Decision Making

- 6.1. The Duty is set at a strategic level, in other words, the key high level decisions that the Council will take.
- 6.2. Strategic decisions are defined in the interim guidance as those which are made in the context of public service reform and improving outcomes for people and communities, i.e. strategy documents, decisions around strategic priorities, allocation of resources and commissioning services. Examples given include:-
- ◆ preparation of Local Development Plan
 - ◆ City Deals / major investment plans
 - ◆ development of new strategic frameworks / significant policies or proposals
 - ◆ major procurement exercises
 - ◆ preparing Local Outcome Improvement Plan (LOIP) as part of Community Planning Partnership (CPP)/Local Plans/Corporate Plan/annual budget
- 6.3. The draft guidance strongly encourages a focus for the Duty being on decisions that directly affect children and families as per The Child Poverty (Scotland) Act 2017. There also may be cases for a Fairer Scotland assessment where the decision is not considered strategic, as whilst the statutory focus of the Duty is on strategic decision making, the ultimate aim of the Duty - as with our equalities responsibilities – is for consideration (due regard) of socio-economic disadvantage to be mainstreamed.

7. Three Year Implementation Phase

- 7.1. There will be a 3 Year implementation phase. The Equality and Human Rights Commission will be the regulator for the Duty and will be involved in developing best practice and in monitoring. During the implementation phase, the way in which the Duty is working in practice will be reviewed and there will be a range of opportunities provided by the Improvement Service to share best practice.
- 7.2. A National Co-ordinator will be appointed through the Improvement Service to support public bodies (this post holder will also be working on the Child Poverty Act).

8. Meeting the Duty

- 8.1. At the heart of the new Duty is a key requirement. This is an expectation that public bodies will:-
- ◆ actively consider, at an appropriate level, what more they can do to reduce the inequalities of outcome, caused by socioeconomic disadvantage, in any strategic decision-making or policy development context
 - ◆ publish a written assessment, showing how they've done this
- 8.2. In doing this, the Scottish Government is clear that public bodies must approach the Duty in a way that:-
- ◆ is not a tick-box exercise but is meaningful and influences decision-making
 - ◆ helps to achieve public bodies' strategic corporate and equality outcomes, makes sense to the public body in relation to the work they do and the processes they already have in place
 - ◆ makes sense to the people and communities they serve (in many cases this may need direct community participation)
 - ◆ helps bring about demonstrable change
- 8.3. The Council will therefore require to:-
- ◆ clearly define socio-economic disadvantage within a local context setting out the pattern of socio-economic disadvantage within South Lanarkshire
 - ◆ determine key inequalities of outcome
 - ◆ involve relevant communities
- 8.4. All of the above underpin Community Planning in South Lanarkshire.
- 8.5. The resources section in the [interim guidance](#) provides information on where to find statistical information on all aspects of socio-economic disadvantage as defined in the interim guidance.

9. Link to the Equality Act 2010

- 9.1. Although the Fairer Scotland Duty is derived from the Equality Act 2010, it is separate from the public sector equality Duty (PSED). However, while they are separate, there are clear links between the aims of both Duties as those who share particular protected characteristics are often at higher risk of socio-economic disadvantage. So for the most part, it won't be possible to reduce inequalities of outcome effectively if the problem and its solutions aren't considered through an equality lens.

- 9.2. Managing the two Duties may prove challenging in some cases. Applying the Fairer Scotland Duty complements the PSED, but it's important to note that it doesn't supersede or replace it.
- 9.3. In recognition of this, interim Council assessment arrangements are proposed which link to the existing equality impact assessment process.

10. Employee Implications

- 10.1. A core competence of all employees is Equal Opportunities and the above activity enables employees to meet this competence and ensures we are providing services that are accessible to all in our community

11. Financial Implications

- 11.1. All costs were met from within existing budgets.

12. Other Implications

- 12.1. The risk to the Council is that if it does not have due regard to the Fairer Scotland Duty it may lead to non-compliance with equalities legislation.
- 12.2. There are no sustainable development issues in terms of this report.

13. Equality Impact Assessment and Consultation Arrangements

- 13.1. This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy and, therefore, no impact assessment is required.
- 13.2. There was no requirement to undertake any consultation in terms of the information contained in this report.

Paul Manning

Executive Director (Finance and Corporate Resources)

14 September 2018

Link(s) to Council Values/Ambitions/Objectives

- ◆ Fair, open and sustainable
- ◆ Focused on people and their needs
- ◆ Working with and respecting others
- ◆ Excellent employer
- ◆ Accountable, effective, efficient and transparent
- ◆ Ambitious, self aware and improving

Previous References

- ◆ Executive Committee - 15 March 2018

List of Background Papers

- ◆ None

Contact for Further Information

If you would like to inspect the background papers or want further information, please contact:-

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