

North Lanarkshire Council Report

Community Empowerment Committee

approval noting

Ref LMcM/AC/EW

Date 31/01/22

Programme of Work P005.2 (4) the review of how the Council's approach to the implementation of the Fairer Scotland Duty has delivered on the duty to reduce socio-economic disadvantage

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Executive Summary

This report provides information on Programme of Work P005.2 (4) the review of how the Council's approach to the implementation of the Fairer Scotland Duty has delivered on the duty to reduce socio-economic disadvantage. The review also explored the synergies and opportunities between the Fairer Scotland Duty and *Towards a Fairer North Lanarkshire Tackling Poverty Strategy*.

Recommendations

The Community Empowerment Committee is recommended to approve the development and delivery of a plan of work, to be overseen by an operational Equalities and Inclusion Board in line with the Council's Project Management guidance, to further support the delivery and implementation of the Fairer Scotland Duty as set out in section 2.2 of the report and incorporating the updated Scottish Government Guidance as referred to in section 2.4 of the report and included in Appendix 1.

The Plan for North Lanarkshire

Priority Improve economic opportunities and outcomes

Ambition statement (11) Increase economic opportunities for adults by understanding, identifying, and addressing the causes of poverty and deprivation and barriers to financial inclusion

1. Background

- 1.1 Committee is reminded of the report to Policy and Strategy Committee in September 2021 that set out the arrangements in terms of Programme of Work P005.2 (4) to carry out a review of how the Council's approach to the implementation of the Fairer Scotland Duty has delivered on the duty to reduce socio-economic disadvantage. The review also explored the synergies and opportunities between the Fairer Scotland Duty and the Tackling Poverty Strategy. The outcome of the review is the subject of this report.
- 1.2 The Fairer Scotland Duty places a legal responsibility on particular public bodies in Scotland to actively consider (pay due regard to) how they can reduce inequalities of outcomes caused by socio economic disadvantage, when making strategic decisions. Its aim is to encourage better decision making and ultimately better outcomes for those who are socially or economically disadvantaged to help narrow inequality gaps.
- 1.3 Interim guidance was issued by the Scottish Government in 2018 to assist those public bodies implement the duty. The Council's own approach to implementing the duty in 2018 was based on this guidance and included:
- ensuring that senior leadership and elected members had an awareness of the Fairer Scotland Duty and the requirements that these place on the council;
 - integrated the need to actively consider how the council can reduce inequalities of outcomes caused by socio-economic disadvantage within our equality impact assessment process;
 - provided training for employees to promote understanding of the duty and the need to consider socio-economic disadvantage;
 - established toolkits, guidance and resources on CONNECT to help with assessment, with an emphasis on making connections with other duties within the Public Sector Equality Duty;
 - promoted the requirement to consider local and national data when assessing; and
 - acknowledged the importance of, and supported the establishment of underpinning good community engagement, involvement and capacity building required.
- 1.4 Updated Scottish Government guidance expected in the autumn of 2021, and now been issued, a copy is included in Appendix 1.

2. Report

- 2.1 The review to understand the effectiveness of the Council's approach to implementing the Fairer Scotland Duty used the following methodology:
- a desktop review of North Lanarkshire Equality and Fairer Scotland Duty Assessments carried out by Council services;
 - qualitative research with Heads of Services (Questionnaire);
 - an examination of the interdependencies between the Fairer Scotland Duty and the Council's strategic approach to tackling poverty;
 - consider the need for the Fairer Scotland Duty to be used in operational decision making as well as strategic decision making; and
 - align the Council's approach to the Fairer Scotland Duty with the new updated guidance issued by the Scottish Government.

2.2 Equality and Fairer Scotland Duty Impact Assessments and what they tell us

2.2.1 At the heart of the Fairer Scotland Duty (FSD) is the key requirement that public bodies must actively consider, at an appropriately defined level, what more they can do to reduce the inequalities caused by socio-economic disadvantage, in any strategic decision-making or policy development context. The interim guidance recommended that a written assessment should be published showing how this has been done.

2.2.2 To assist with evidencing this active consideration required by the Duty, the Council made the decision to integrate the Fairer Scotland Duty into the Equality Impact assessment process, that is a requirement of the Public Sector Equality Duties. These 2 duties are inextricably linked for the following reasons:

- the FSD's origins are within the Equality Act 2010 (originally the socio-economic duty that was retracted by the British Government and introduced as the FSD by the Scottish Government in 2018);
- both duties have the requirement to pay due regard - active consideration to tackle socio-economic disadvantage and advance equality; and
- it is well understood that those who share protected characteristics are often at higher risk of socio-economic disadvantage.

2.2.3 To examine the effectiveness of the Council in implementing the duty, the internal review encompassed:

- an analysis of those assessments published on the Council website from November 2020; and
- Heads of Service were asked, through a questionnaire,
 - about their experiences of making strategic decisions and assessing these under the FSD; and
 - carrying out the assessment and any changes they made to tackle socio-economic disadvantage as a result.

2.2.4 Of the assessments published on the Council's website, nine were clear strategic decisions and all provided evidence of due regard under the FSD.

2.2.5 Whilst many responses to the Heads of Service questionnaire provided positive examples of where tackling socio-economic disadvantage was made, the Equality and FSD Assessment Form wasn't consistently used. This makes it difficult to determine whether in fact all aspects of socio-economic disadvantage - low income, low wealth, material and area deprivation – were actively considered and in addition, what, if any consideration was given to those with protected characteristics.

2.2.6 Where the integrated FSD and equality impact assessment form was used to assess impact, most found using it helpful. In addition, positive suggestions were provided in terms of improving the assessment form and available improving the level of information resources to assist those completing assessment. Suggestions included:

- resources on CONNECT to continue to be updated as new research and evidence emerges in relation to socio-economic disadvantage;
- raise awareness and understanding of the requirements across teams;
- clear guidance on publishing assessments; and
- provision of key contact(s) for FSD assessment queries.

2.3 The Fairer Scotland Duty and Tackling Poverty Strategy

2.3.1 Another facet of the review on how the Council has implemented the Fairer Scotland Duty was to look at the synergies with *Towards a Fairer North Lanarkshire Tackling Poverty Strategy*. Clearly the purpose of both is to identify, address and alleviate the causes and consequences of poverty. The Local Child Poverty Action Report and the Action Plan commits to poverty proofing decisions by embedding the assessment of the impact of strategic planning on poverty into our decision-making. The Council has sought to do this by integrating the FSD assessment into the equality impact assessment form.

2.3.2 The questionnaire asked Heads of Services whether they agreed with the Council's intention to go further than guidance and to undertake FSD assessments for all decisions, not just strategic considerations. Whilst there is support from a slight majority of Heads of Service, there is concern that such a move may not be proportionate and would run the risk that the assessments would become a mere tick box exercise.

2.4 Revised Fairer Scotland Duty Guidance – what's new?

2.4.1 The Scottish Government has advised that The guidance hasn't changed substantially from what was published in 2018, as the duty hasn't changed, but it has been updated, enhanced and informed by the experience of delivering the duty over the last three years. The COVID 19 pandemic and its impacts are reflected in the guidance, highlighting how important consideration of socio-economic disadvantage is in decision making in order to tackle the unequal impact on those on low incomes, with low wealth, in material deprivation or living in deprived areas.

2.4.2 There have been some additions and updates, including:

- new organisations have been added to the list of which public bodies are covered by the duty including Scottish National Investment Bank PLC and South of Scotland Enterprise, and under the 'Scottish Ministers' Forestry and Land Scotland; and Scottish Forestry have been added;
- refreshed links have been added under Defining Socio-economic Disadvantage;
- additional examples of inequality of outcome are given, including on employment, mental health, overweight and obesity and homelessness;
- there is a longer list of what might constitute a strategic decision, although this cannot possibly cover all the strategic decisions an organisation makes, so it remains up to individual organisations to agree what their strategic decisions are;
- questions have been added to help public bodies to know how well they have demonstrated due regard;
- reference has been made to the National Taskforce for Human Rights and link between that work and the Fairer Scotland Duty;
- an Organisational Readiness section has been added, highlighting some overlapping factors in helping public bodies prepare for, and meet the Duty;
- the Preparing to Meet the Duty section has some new content to help organisations to inform their processes for carrying out Duty assessments;
- across the Meeting the Duty day to day section additional questions have been added to assist consideration of each part;
- an example 'Assessment not required' declaration is included in Annex B of the guidance should this be identified during the planning phase. This is just a suggested template and can be adapted to suit the Council's requirements and process;

- the Evidence section has additional information on what are good sources of lived experience of socio-economic disadvantage and who you might be able to engage with to inform evidence gathering and consideration of the duty;
- the Case Studies have been updated with live examples from NHS Lanarkshire, Scottish National Investment Bank, Scottish Government, East Lothian Council and NHS 24;
- all the data sources have been updated, with some links to new sources introduced; and
- an evaluation tool has been included in Annex A of the guidance. This is not a mandatory tool, but is included to help organisations with quality assurance of their Duty assessment processes, encouraging reflection and the identification of improvements. It can be adapted to suit the Council's needs.

2.4.3 Fairer Scotland Duty implementation support available The National Co-ordinator post has been extended to the end of September 2022.

2.4.4 Considering all of the above together with the suggestions provided by Heads of Service to strengthen the approach as referred to in section 2.2.6; and the statutory duty to undertake equality impact assessments of all new and revised policies - which in themselves should consider socio-economic disadvantage – and the integrated equality and FSD form to support this, it makes sense, at this time, to develop a programme of support and capacity building for those developing strategies and policies which will strengthen and evidence the Council's approach in considering socio-economic disadvantage in decision making, in order to tackle the unequal impacts of those on low incomes, with low wealth, experiencing material deprivation.

2.5 Next Steps

2.5.1 A plan of work will be established, to be overseen by a new Equalities and Inclusion Board, to further support the delivery and implementation of the required improvements to the Fairer Scotland Duty as set out in section 2.2 of the report and Appendix 1.

3. Public Sector Equality Duty and Fairer Scotland Duty

3.1 This report is a direct consideration of the Fairer Scotland Duty. The review looked at its links to the PSED. No impact assessment required to be undertaken.

4. Impact

4.1 Financial impact

4.1.1 None.

4.2 HR policy / Legislative impact

4.2.1 The findings of the review will further support the Council's implementation of the Fairer Scotland Duty.

4.3 Technology / Digital impact

4.3.1 None specific to the review.

4.4 **Environmental impact**

4.4.1 None specific to the review.

4.5 **Communications impact**

4.5.1 A communications plan will be required to disseminate the revised needs of the Fairer Scotland Duty across elected members and teams.

4.6 **Risk impact**

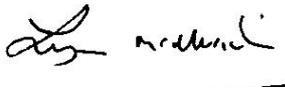
4.6.1 By strengthening the Council's approach to implementing the Fairer Scotland Duty the risk of non-compliance is reduced.

5. **Measures of success**

5.1 The ways in which the Council tackles socio-economic disadvantage is considered and evidenced within published impact assessments.

6. **Supporting documents**

6.1 Appendix 1 - The Fairer Scotland Duty – Guidance for Public Bodies



Lizanne McMurrich
Head of Communities



Revised Fairer Scotland Duty Guidance – what's new?

The Fairer Scotland Duty came into force in April 2018 with interim guidance published by Scottish Government to support those public bodies subject to the duty in its implementation. On Monday 4 October 2021 the Scottish Government published revised Fairer Scotland Duty Guidance here <https://www.gov.scot/publications/fairer-scotland-duty-guidance-public-bodies/>. This statutory guidance must be taken into account by the public bodies subject to the Duty when deciding how to fulfil the Duty.

The Fairer Scotland Duty places a legal responsibility on particular public bodies in Scotland to actively consider ('pay due regard' to) how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions.

Those public bodies have been implementing the Duty for the last three years and their experiences informed this revised guidance via engagement with the Fairer Scotland Duty Leads Network and through the National Co-ordinator. The Scottish Government also undertook a consultation, the analysis of which can be found on the Fairer Scotland Duty KHub [here](#). The guidance is also informed by the report from the Equality and Human Rights Commission 'Evaluating the Socio-Economic Duty in Scotland and Wales'.

So, what's new in the guidance?

The guidance hasn't changed substantially from what was published in 2018, as the duty hasn't changed, but it has been updated, enhanced and informed by the experience of delivering the duty over the last three years. The COVID 19 pandemic and its impacts are reflected in the guidance, highlighting how important consideration of socio-economic disadvantage is in decision making in order to tackle the unequal impact on those on low incomes, with low wealth, in material deprivation or living in deprived areas.

There have been some additions and updates, including:

- New organisations have been added to the list of which public bodies are covered by the duty including Scottish National Investment Bank PLC and South of Scotland Enterprise, and under the 'Scottish Ministers' Forestry and Land Scotland; and Scottish Forestry have been added.
- Refreshed links have been added under Defining Socio-economic Disadvantage.
- Additional examples of inequality of outcome are given, including on employment, mental health, overweight and obesity and homelessness.
- There is a longer list of what might constitute a strategic decision, although this cannot possibly cover all the strategic decisions an organisation makes, so it remains up to individual organisations to agree what their strategic decisions are.
- Questions have been added to help public bodies to know how well they have demonstrated due regard.



- Reference has been made to the National Taskforce for Human Rights and links between that work and the Fairer Scotland Duty.
- An Organisational Readiness section has been added, highlighting some overlapping factors in helping public bodies prepare for, and meet the Duty.
- The Preparing to Meet the Duty section has some new content to help organisations to inform their processes for carrying out Duty assessments.
- Across the Meeting the Duty day to day section additional questions have been added to assist consideration of each part.
- An example 'Assessment not required' declaration is included in Annex B should this be identified during the planning phase. This is just a suggested template and can be adapted to suit your organisation and process.
- The Evidence section has additional information on what are good sources of lived experience of socio-economic disadvantage and who you might be able to engage with to inform evidence gathering and consideration of the duty.
- The Case Studies have been updated with live examples from NHS Lanarkshire, Scottish National Investment Bank, Scottish Government, East Lothian Council and NHS 24.
- All the data sources have been updated, with some links to new sources introduced.
- An evaluation tool has been included at Annex A. This is not a mandatory tool, but is included to help organisations with quality assurance of their Duty assessment processes, encouraging reflection and the identification of improvements. It can be adapted to suit your organisations needs.

Fairer Scotland Duty implementation support available

The National Co-ordinator post has been extended to the end of September 2022 in order to provide further support to public bodies subject to the Duty. The Co-ordinator can be contacted at miriam.mckenna@improvementservice.org.uk or on 07920 811662.

The Fairer Scotland Duty KHub holds a range of information and resources of relevance to implementing the Duty. The link to the site is <https://www.khub.net/group/fairer-scotland-duty>. If you are not already signed up to the Knowledge Hub you can do so here <https://khub.net/sign-up> and then can use the Fairer Scotland Duty link above to request to join.

The Fairer Scotland Duty Leads network meets every 6 weeks to share practice and challenges and support each other to find solutions. The network has also heard from speakers about the cross over between socio-economic disadvantage and protected characteristics. If you would like to join the network, please get in touch with the National Co-ordinator using the contact details above.