



The Socio-Economic Duty: A Consultation

RESPONDENT INFORMATION FORM

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SURF'S RESPONSE TO THE SCOTTISH GOVERNMENT'S SOCIO-ECONOMIC DUTY CONSULTATION

About This Paper

In July 2017, the Scottish Government opened a seven week consultation on its commitment to introduce a socio-economic duty in Scotland, requesting views on draft definitions, which public bodies the duty should apply to, and how organisations can show that they are meeting new obligations.

This paper presents a response to this consultation on behalf of SURF – Scotland's Regeneration Forum, a registered charity with more than 250 cross-sector member organisations that are concerned with alleviating physical, social and economic challenges Scotland's poorest communities.

Introduction

Consultations towards SURF's 2016 Manifesto for Community Regeneration highlighted a strong SURF network demand for the Scottish Government to address increasing inequalities by, *"introducing a statutory duty for reducing socio-economic disadvantage across all public policy."* This was one of just two key policy recommendations presented alongside seven secondary proposals in our final manifesto.ⁱ

SURF therefore welcomed the Scottish Government's commitment to introduce a socio-economic duty on public bodies when it was announced by the Cabinet Secretary for Communities, Social Security and Equalities, Angela Constance MSP, in last year's Fairer Scotland Action Plan.ⁱⁱ

In July 2017, the Scottish Government opened a formal consultation on the socio-economic duty, which it intends to introduce before the end of the year. The following section features our response to the questions stated in the consultation paper. SURF is grateful to members and contacts that have contributed their views and comments.ⁱⁱⁱ

SURF Response to Set Questions: Socio Economic Duty Consultation

Q1: 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?

The characteristics of “socio-economic disadvantage”, “inequalities of outcome”, and “decisions of a strategic nature” presented in the consultation document are generally consistent with SURF's understanding. The dual emphasis on disadvantaged communities of place and disadvantaged communities of interest is particularly welcome, as is the statement that:

“Socio-economic disadvantage is not always experienced in neat concentrations of people in recognisable communities... two out of three people who are income deprived do not live in deprived areas”.ⁱⁱⁱ

This usefully recognises the challenging and complex spread of poverty in Scotland. While the description appropriately refers to the diverse nature of deprived people and deprived places, we note that socio-economic disadvantage is not clearly defined in law. This reality may lead the public bodies required to meet the requirements of the duty to use different interpretations of “socio-economic disadvantage” in practice.

Some SURF members have reported that “due regard” is too vague a term. They are concerned that it would allow public bodies to meet duty obligations by producing simple reports on how their existing activities show “due regard” for socio-economic inequalities, which could be done without their having to make any significant changes upon the introduction of the duty. The Scottish Government should consider firming up this aspect of the duty as it is developed, perhaps with reference to a form of measurable outcomes.

Similarly, the purpose of the duty includes the description, “An authority... must... have due regard to the desirability of exercising [its functions]”. This language suggests a considerable level of distance from placing socio-economic considerations more directly and centrally into strategic public sector decision-making. This appears less ambitious in scope than was suggested by the language in the original Fairer Scotland Action Plan commitment, which stated:

“the new duty will help make sure the [public] sector takes full account of poverty and disadvantage when key decisions are being made”.ⁱⁱ

In SURF's view, greater clarity of direction will be more likely to ensure the realisation of the significant potential for this legislation in helping to address degenerative inequalities.

Q2A: Do you agree that the socio-economic duty should apply to the Scottish public authorities named here? If not, please specify which authority you do not think it should apply to and why?

Yes, it would be logical for the socio-economic duty to cover all of the listed bodies.

Q2B: 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.

Non-departmental public bodies such as National Park Authorities, Historic Environment Scotland and the Scottish Futures Trust have relevant socio-economic roles and responsibility

for managing significant resources. These agencies do not appear in the consultation paper list but they would reasonably be expected to be in the same position as local authorities and enterprise agencies with regard to the application of the duty.

SURF would, in fact, like to see the duty applied to all public bodies in Scotland. In a SURF Board debate on this matter, it was noted that an Act of Parliament would be required to do this. The resulting discussion agreed that this would be a step worth taking to fully extend the scope of the duty and take every advantage of the opportunity it offers to help tackle poverty and inequality challenges.

If it is the case that an Act of Parliament would hinder the introduction of the duty, SURF would be interested to learn if it would be possible for the Scottish Government to apply the duty to the listed bodies now, and explore in the longer term the prospects for bringing forward the legislation required to widen its scope. An alternative option would be to encourage the Scottish public bodies not listed in the consultation paper to sign up to the duty on a voluntary basis.

Additional SURF concerns about the breadth of the duty are that:

- It is unclear if it would apply to the decisions made by Community Planning Partnerships, even if most Partnership members are bound by the duty;
- Third sector and private sector contractors that deliver a sizeable and growing proportion of public services through procurement arrangements would not be covered by the duty;
- Given the Scottish Government's welcome stated priority for closing the attainment gap, Further Education and Higher Education institutions would be welcome additions.

Q3A-3F: Do you have any comments on the steps set out in Section 3? What other actions could public authorities take to demonstrate that they are meeting the duty? Etc.

The four step process defined in the consultation paper is a logical one, but we are concerned by the following aspects.

Firstly, step 1 makes limited reference to the areas of strategic decision-making that public bodies undertake, with budget setting named as the only example. This presentation could lead the public bodies bound by the duty to assume that budget setting is the only area the duty is concerned with. The case studies in the annex helpfully provides some additional examples, and any socio economic duty guidance produced for public bodies would be strengthened by the inclusion of these and further practical examples to demonstrate the range of strategic decision-making the duty is intended to influence.

Under step 2, there is no acknowledgement of the data and skills gap that prevent local authorities and other public bodies from fully understanding socio-economic inequalities at a local level. While existing data and tools such as the Scottish Index of Multiple Deprivation are helpful, the consultation paper acknowledges that the majority of income deprived people do not live in areas ranked among the most deprived. This suggests both that additional research is needed, and that public body representatives must have the adequate skillset to understand the limitations of existing evidence. In addition, as noted by the 2016 Royal Town Planning Institute report 'Poverty, place and inequality', the focus on:

“...individuals and households as units of analysis rather than neighbourhoods... makes it hard to measure the success of [Area Based Initiatives]”.^{iv}

This situation creates a fundamental difficulty in understanding whether place-based regeneration investments of public bodies are significantly alleviating socio-economic disadvantage. As SURF noted in its 2016 Manifesto, the ‘churn’ of people moving in and out of a particular neighbourhood in the longer term, and the ‘noise’ of other policies and the general functioning of the economy, makes evaluation highly challenging. We would like to see the duty accompanied by the provision of resources such as evidence training and new academic/public collaborations in regeneration impact research. There are a number of tools, such as the Scottish Government supported Place Standard and Community Charrette models, which public bodies can use to enhance their understanding of lived experience and place level impacts on socio-economic disadvantage.

SURF is keenly aware of the budgetary, statutory and partnership pressures that Councils are under, and many may understandably interpret the duty as an additional burden. The ability of local authorities to respond to new research demands is strictly limited, as many of the most experienced local authority research staff have been lost in post-2008 voluntary redundancies and departmental restructuring processes. Can the introduction of the duty be promoted positively to local authorities as a preventative tool that supports inclusive economic growth? CoSLA – which holds the position that the duty is “a useful tool in helping to tackle socio-economic disadvantage in Scotland” – and the Improvement Service could help make the positive case to local authorities.^v

The reference to involving people with direct experience of poverty in the process is a welcome one. SURF was set up 25 years ago on the founding principle that the intended beneficiaries of any regeneration initiative should be meaningfully in its design, implementation and maintenance if it is to be effective and sustainable. The consultation paper does not indicate how such people could be involved in the duty. Some practical examples promoted in the accompanying guidance would be helpful.

Under step 3, it is unclear if the Scottish Government is suggesting that public bodies will be obliged to produce and publish audit trails, dedicated reports and/or impact assessments – and whether the latter would be amalgamated with, or separate to, Equality Impact Assessments. Public bodies should be provided with clear guidance on expectations. There should be a sensible balance struck between the clear demonstration of duty impacts by public bodies and the resources required for bureaucratic procedures.

Step 4 states that no immediate actions will be taken with regard to monitoring the impact of the duty. Whether or not new legislation will be required to do so, there are obvious dangers of not undertaking formal monitoring and evaluation, not least that we will simply not know if the duty is delivering useful outcomes. It could also lead local authorities to overlook the duty as they prioritise more robust policy obligations.

Q4A: 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?

There is a welcome raft of emerging anti-poverty policy activity, including the Child Poverty Bill, Social Security Bill, Warm Homes Bill, the establishment of a National Commission on Poverty and Inequality, and proposed elements of a new Planning Bill. The socio economic duty could form a leading role among these by encouraging public bodies to take an integrated approach to considering how all strategies, investments and service provisions could contribute to the tackling poverty and inequalities agenda.

This is a fundamental aspiration that aligns strongly with Scottish Ministers' encouraging rhetoric on the importance of doing more to address poverty and support a genuinely inclusive model of economic growth.

On a practical level, the Scottish Government could maximise the public and political profile of the introduction of the duty, including through the First Minister's media appearances. Consideration could also be given to the role of the Commission and Audit Scotland in providing oversight on the duty's operation, and recommendations on its development. The introduction of the duty is likely to be an iterative process refined over the longer term, and independent scrutiny would be valuable in responding to challenges such as inconsistent application across the public sector.

SURF would be pleased to assist the Scottish Government in promoting the introduction of the duty and supporting the development of cross-sector links.

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^v Convention of Scottish Local Authorities (CoSLA), 2017, *Environment and Economy Board Item: The Socio-Economic Duty*, Edinburgh: CoSLA. Available at: <http://www.cosla.gov.uk/sites/default/files/private/17-09-04item09socio-economicduty.doc>