

**The Socio
Economic Duty**
Shelter Scotland
consultation
response
September 2017

Shelter Scotland welcome the opportunity to respond to the consultation on the Socio Economic Duty which asks particular public authorities to do more to tackle the inequalities of outcome caused by socio-economic disadvantage.

The response does not cover every question in the consultation.

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?

Shelter Scotland believe it is important to provide clarity on the socio-economic duty to assist public authorities in meeting their statutory obligations, therefore we support the inclusion of the four definitions in the forthcoming guidance.

- Socio-economic disadvantage:

Shelter Scotland welcome the definition of socio-economic disadvantage. It may be worth considering the addition of a sentence indicating the changing nature of socio-economic disadvantage, for example people can be in and out of poverty, but that there are different risk factors. It is also important to note the effect on people who are in or at risk of being in multiple disadvantaged groups – for example those at risk of rural fuel poverty.

We have some concerns over how we ensure all these groups are considered – will a list be provided within the guidance, for example? This will be particularly important for the public authorities who may be new to these types of considerations. In upcoming guidance on the duty, case study examples should be provided to demonstrate to readers the variety of types of socioeconomic disadvantage, multiple disadvantage, and the changing nature of socio-economic disadvantage.

- Inequalities of outcomes:

The definition of inequalities of outcomes explains the results of inequalities for particular groups in a simple and effective manner. When considering guidance for the proposed duty, Shelter Scotland would recommend the inclusion of a wider variety of case studies demonstrating the link between socio-economic disadvantage and inequalities of outcome, to add to the statistics given which

compare years of good health and educational qualifications in affluent and deprived areas. These could also help readers understand the multifaceted nature of inequalities and how they might identify their role in tackling such outcomes.

- Decisions of a strategic nature

Shelter Scotland believe there are arguments to strengthen or at least clarify instances on decisions of a strategic nature. Shelter Scotland believes clarification needs to be made on what decisions of a strategic nature are, and how they then impact on day to day implementation of these decisions, and that the examples given may blur the lines between these two types of decision. Most strategic decisions are, presumably, going to be development of overriding policies which then drive and guide decision making on the ground. The public body should therefore be aware of how these strategic decisions are monitored with regard to their impact on day to day decisions, thus providing insight as to how the impact of the duty might be assessed. For example, the socio-economic duty could have important and welcome influence on the day to day implementation of strategic decisions, for example local authority flexibility on section 75 developer contributions for affordable housing. In this example, the decision of a strategic nature which should be affected by the duty would be the local authority's affordable housing policy, if they have one. This policy should be made with the duty in mind, and this should then follow through to the planning committee's decisions on local developments. It should be made clear in any monitoring by the public authority therefore not just how the socio-economic duty has had an impact on the strategic decision, but how this has followed through to action on the ground.

Another good example of this would be in the creation of Local Housing Strategies, which local authorities are required by law under the Housing (Scotland) Act 2001 to produce and which sets out their plans for the delivery of housing and housing-related services locally.

Leading on from this, it is important that more detail is known about the level of strategic decision to which this duty will apply as it currently appears that public bodies will be left to decide where in their organisation the strategic line should be set. The Scottish Government should provide support to public authorities to identify their decisions of a strategic nature, and in any monitoring the public authority should clearly lay out what they consider their decisions of a strategic nature to be, to give an opportunity to share best practice on this amongst relevant sectors and to challenge any gaps.

- Due regard

The description of due regard leaves a lot open to interpretation by public authorities. The measure of how well this duty is implemented will be in what follow up and monitoring of the duty takes place – who ultimately decides whether 'enough' due regard has been taken? This is a particular issue for the organisations mentioned in the last paragraph, where reducing inequalities in

outcomes will be a less obvious part of their remit. It is likely to be more difficult for them to understand the groups they should consider impact on, and they may be less likely to see the impact of their actions and may consider a higher bar for 'due regard'.

Shelter Scotland would like the Scottish Government to consider further:

- how public authorities will be able to demonstrate due regard has been taken in a meaningful way,
- what opportunities there are for this to be challenged,
- who is responsible for monitoring this, and
- and who has overall responsibility for ensuring the duty is being adhered to across such a wide range of public authorities and strategic decisions.

At present, Shelter Scotland is unclear how, given the definition of due regard and the lack of monitoring in place, an individual, community, organisation, or indeed Scottish Ministers might reasonably challenge any public authority in their interpretation of the duty.

The Scottish Government might also consider whether public authorities need to provide an audit trail for all their strategic decisions. This would help provide the groundwork and evidence required for the Scottish Government to review and consider strengthening the duty in future.

Shelter Scotland supports the suggestion by the Equality and Human Rights Commission in their consultation response¹ that the definition of due regard is adopted as it applies to the Equality Duty, which has the benefit that it has already been endorsed by the courts, and public authorities will already understand this definition.

The other term that may be defined differently across local authorities may be 'desirability', and the Scottish Government may wish to consider including a definition on this, or ensuring there is appropriate guidance on how to interpret or measure desirability.

¹ https://www.equalityhumanrights.com/sites/default/files/consultation_sed.pdf

QUESTION 2:

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?

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.

Shelter Scotland agrees that the socio-economic duty should apply to the Scottish public authorities named, given they are providing a public service and are all bound by the Equality Act. Shelter Scotland are pleased to see the new Scottish Social Security Agency will be subject to the duty, given its potential to alleviate poverty and improve inequality outcomes.

We share the concern of other third sector organisations that Community Planning Partnerships are not subject to the duty, and would like to see further consideration given to their inclusion, bearing in mind the high level strategic function they fulfil and the impact they have on communities.

We would add that the duty should follow for any replacement bodies, for example the organisation that takes on the duties of NHS Health Scotland once it is disbanded.

QUESTION 3A:

Do you have any comments on the steps set out in Section 3?

In preparation for the implementation of the duty, lessons should be taken from the Public Sector Equality Duty, and its impact assessed. For example, we are concerned that the Equality Duty and the Equality Impact Assessments may be presenting difficulties for public authorities, potentially because of a knowledge gap in public authorities around equalities. Understanding the implementation of the Equality Duty will help ensure the Socioeconomic Duty will be fulfilled in the way it is intended. In order to do this Scottish Ministers should endeavour to facilitate knowledge and learning exchanges.

We feel that a significant amount of guidance will need to be provided to public authorities for them to realise this duty in a meaningful way, however it will be a useful tool for public authorities to assess and better understand the impact their decisions have on outcomes for the people they serve.

Implementation of the duty as it is presented seems labour intensive with potential for lots of repetition. Consideration needs to be given to how this will be resourced to ensure it is done effectively – particularly in the context of reduced and pressured budgets.

Shelter Scotland has concerns that data protection and data sharing may be used as a reason for a lack of engagement with the duty. This will particularly be an issue for some public authorities who do not have ready access to data. Again, there is a role here for a network or knowledge exchange facility to share best practice, though the guidance will play an important role here too. Consideration should be given to updating the guidance after the duty has bedded in to share successes and how barriers have been overcome by the different public authorities.

Shelter Scotland strongly supports the poverty and fairness commissions which have been set up in different guises by different local authorities, for example the Renfrewshire Tackling Poverty Commission and Dundee Fairness Commission. The commissions allow an opportunity for a pooling of resources which may be helpful for public authorities when considering how to carry out their duties under the act. However, for non-geographically based public authorities, this may be more difficult. As above, we suggest there is an opportunity for developing a facility to share learning across Scotland to avoid duplication of effort and resources.

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?

Given the duty is in relation to socioeconomic disadvantage, Shelter Scotland would like to ensure that the expertise of people with experience of all types of socioeconomic disadvantage is represented, and not solely those with direct experience of poverty.

Involving people with lived experience is extremely important to ensuring this duty is a success. However, particularly given the differing natures of the public authorities compelled to take action under the duty, this should be done in a managed way to ensure that communities are not at risk of engagement fatigue. Communities should feel empowered and listened too and should see the results of their engagement.

From Shelter Scotland's own experience of service user involvement in service design, campaigning and public affairs work and formulating policies, we have learnt that for participation and engagement to be meaningful it can be time and resource intensive, and organisations should be supported to undertake this work. Some public bodies may be less acquainted with public consultation than others and so provision must be made for upskilling and empowering public bodies to carry this out effectively and, again, for sharing good practice on how this can be achieved.

For example, the Commission on Housing and Wellbeing commissioned the Poverty Alliance to undertake community engagement across Scotland. A total of 212 people were engaged in this work via workshops, focus groups and case

studies. This resulted in the views of those affected by poverty and poor housing being represented throughout the Commission's report and recommendations.

The Dundee Fairness Commission is another example. They wanted service users from a range of advice agencies to inform their strategic plan. A working group then brought together a group of service users who wanted their story to be heard. This included focus groups looking at issues including sanctions, mental health, physical disabilities and other challenges that could lead to inequalities. The evidence on experiences of poverty was gathered via different means including one to one interviews which were then transcribed. The overall aim was to give service users a voice. Service users had the opportunity to partake in a ministerial visit and undertake media work. The insight of the service users was vital in informing what action the Fairness Commission would take.

QUESTION 3E:

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

Shelter Scotland recommend that guidance on the socio-economic duty should be consulted on separately.

Guidance should help public authorities apply the duty as consistently as possible across different authorities and geographical regions.

References to what should be included in the guidance and what support might be needed for public authorities have been made throughout this submission. For example, the guidance should include reference to:

- different types of disadvantage, the sometimes multifaceted disadvantage some communities and individuals can face, and the changing nature of such disadvantage.
- different types of strategic decisions
- how this links to existing duties
- how to best engage with communities who might be affected by the duty
- options for merging into current frameworks and processes, and
- reporting and monitoring guidance.

Support should be provided in the form of useful guidance, updated with best practice, and consideration should be given to how else best practice can be shared.

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?

Given the labour-intensive nature of the duty, it is most sensible to make best use of any existing frameworks to assist public bodies to fulfil this duty. It also imperative that it is clear what the expected outcomes are, which is currently not the case, so that public authorities can ensure their monitoring tools are effective.

We are keen to ensure that a wide approach is taken to monitoring outcomes. For example, use of the SIMD as a tool of measuring the impact of the duty would not be sufficient on its own: not all people experiencing socio-economic disadvantage will live in the bottom quintile of the SIMD, and efforts must be made to go further than the most obvious areas of disadvantage in terms of place, including groups who share certain characteristics.

For any queries, please contact Lisa Glass, Policy Officer

Email: lisa_glass@shelter.org.uk

Tel: 0344 515 2469

Shelter Scotland helps over half a million people every year struggling with bad housing or homelessness through our advice, support and legal services. And we campaign to make sure that, one day, no one will have to turn to us for help.

We're here so no one has to fight bad housing or homelessness on their own.

Please support us at shelterscotland.org

RH7439. Registered charity in England and Wales (263710) and in Scotland (SC002327)

Shelter Scotland
Scotiabank House
6 South Charlotte Street
Edinburgh EH2 4AW

shelterscotland.org