

# The Fairer Scotland Duty

Guidance  
for Public  
Bodies

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# Introduction

# Introduction

The Fairer Scotland Duty (the Duty) came into force on 1 April 2018 and places a legal responsibility on named 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.**

In deciding how to fulfil the Duty, public bodies must take into account this statutory guidance,<sup>1</sup> which has been developed with public bodies, grounded in experience of working on the Duty, the Equality and Human Rights Commission, the Improvement Service and third sector organisations. Thanks to all those who have worked on the text with us.

The Duty seeks to tackle socio-economic disadvantage and reduce the inequalities that are associated with being disadvantaged. This is a complex, multidimensional problem, closely related to poverty. Having less access to resources can mean that individuals fare worse on outcomes including health, housing, education or opportunities to work or train, and these negative outcomes can reinforce each other. Adversity in childhood can have life-long impacts, and growing up in poverty is associated with poorer educational attainment, employment prospects and health inequalities. Therefore

it is crucial that public bodies consider the impact that their decisions have on socio-economic disadvantage and the inequality of outcome that both adults and children may experience as a result.

As reported in the joint Scottish Government and COSLA report on "Scotland's Wellbeing: The Impact of COVID-19" the pandemic exacerbated existing inequalities.<sup>2</sup> Those already experiencing disadvantage – minority ethnic communities, disabled people, older and younger people, women – were disproportionately impacted, often in multiple ways and with compounding effects. This suggests that, unless significant action is taken in the post-COVID policy space, unequal outcomes for different groups could increase across National Indicators in the future – in particular inequalities relating to income or socio-economic status, gender, age, ethnicity and disability.

The unequal impact of the COVID-19 pandemic on people experiencing socio-economic disadvantage means that consideration of the Duty is more important than ever and will be key in informing future strategic decision-making to assist with the recovery and renewal process in order to build back stronger and fairer.

The Scottish Government continues to encourage innovation in how public bodies meet the Duty and welcomes different approaches. However public bodies must take this guidance into account when deciding how to fulfil the Duty.

<sup>1</sup> In accordance with section 1(2) of the Equality Act 2010.

<sup>2</sup> <https://nationalperformance.gov.scot/scotlands-wellbeing-impact-covid-19>



# About the Duty

# What is the Fairer Scotland Duty (the Duty)?

The Fairer Scotland Duty, set out in Part 1 of the Equality Act 2010, came into force in Scotland from 1 April 2018.

It 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**. This is set out in the first diagram below, with more explanation in the pages that follow.

When deciding how to fulfil the Duty, the Equality Act 2010 also requires those public bodies to take into account this statutory guidance issued by Scottish Ministers.

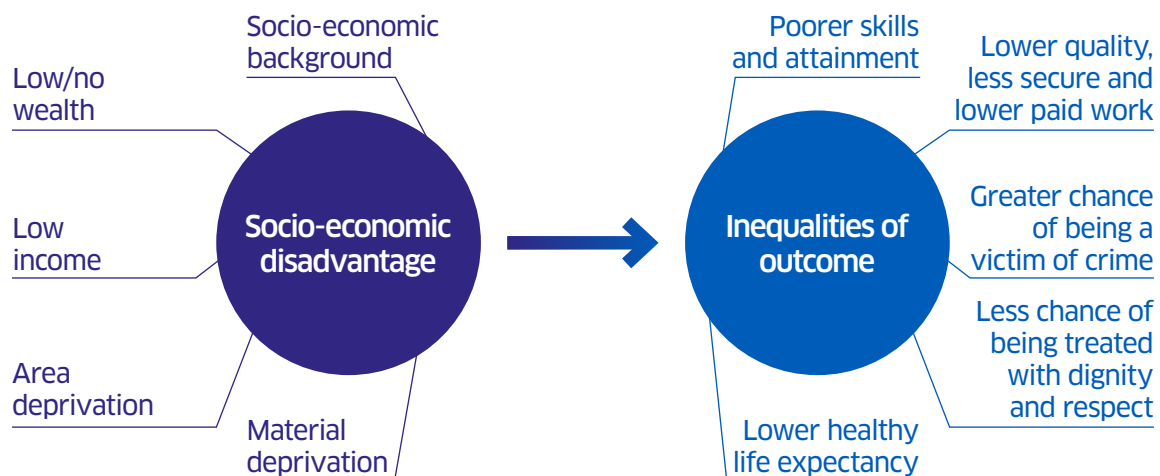
We know that many in the public sector and beyond see this Duty as an opportunity to do things differently and to put tackling inequality genuinely at the heart of key decision-making. People in Scotland still experience significant socio-economic disadvantage and resulting inequalities of outcome. In 2016-19, over a million Scots were living in relative poverty after housing costs, including almost one in four children; and health inequalities and educational attainment gaps are far too wide. This unfairness isn't inevitable. We can reduce poverty and inequalities of outcome, helping to realise the rights of the people who have experienced them. The economic shocks of, for example, the financial crisis in 2008 and the COVID-19 pandemic have highlighted and further exacerbated the socio-economic disadvantage experienced by people in Scotland. These kinds of profound effects on disadvantage make assessments under the Duty even more important if we are to make the lives of people experiencing socio-economic disadvantage measurably better.

# What is the Fairer Scotland Duty (the Duty)?

To fulfil their legal obligations under the Duty, public bodies must actively consider how they could reduce inequalities of outcome in any **strategic decision** they make. In order to demonstrate how they've done this, we recommend public bodies should as a matter of good practice publish a written record of their decision-making process. This will be a key way in which public bodies can evidence their compliance with the Duty.

Some other considerations worth bearing in mind are as follows:

- The Duty applied from 1 April 2018 and does not cover decisions made before this date.
- The Duty also does not override other considerations – such as equality or best value.
- The Duty is nevertheless a key consideration, underpinned by statute.
- The Equality and Human Rights Commission (EHRC) is the Regulator for the Fairer Scotland Duty and is closely involved with monitoring and the development of best practice for the Duty.



# Which public bodies are covered by the Duty?

These public bodies are covered by the Duty:<sup>3</sup>

- Scottish Ministers [see opposite]
- Local Authorities
- Territorial Health Boards<sup>4</sup>
- Special Health Boards [see opposite]
- Integration Joint Boards
- The Scottish Police Authority
- Highlands and Islands Enterprise
- Scottish Enterprise
- Scottish National Investment Bank PLC
- South of Scotland Enterprise
- Revenue Scotland
- Food Standards Scotland
- National Records of Scotland
- The Keeper of the Registers of Scotland
- The Scottish Courts and Tribunals Service

“Scottish Ministers” covers the following: The Scottish Government; Accountant in Bankruptcy; Disclosure Scotland; Education Scotland; Scottish Prison Service; Scottish Public Pensions Agency; Student Awards Agency for Scotland; Transport Scotland; Social Security Scotland; Forestry and Land Scotland; and Scottish Forestry.

“Special Health Boards” covers the following: Public Health Scotland; NHS Education for Scotland; National Waiting Times Centre Board (informally known as the Golden Jubilee Hospital); NHS 24; Scottish Ambulance Service Board; and the State Hospitals Board for Scotland.

The public authorities in the list will have somewhat different functions. Some will take strategic decisions on a regular basis, others only occasionally. How often public bodies engage with the Duty could therefore vary year on year.

It’s also worth noting that the functions of public bodies can change – for example, when given new responsibilities by government. This means that a public body’s engagement with the Duty may also need to change over time.

<sup>3</sup> List accurate as at 1 October 2021

<sup>4</sup> A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978



# Defining ‘Socio-Economic Disadvantage’

In broad terms, ‘**socio-economic disadvantage**’ means living on a low income compared to others in Scotland, with little or no accumulated wealth, leading to greater material deprivation, restricting the ability to access basic goods and services. Socio-economic disadvantage can be experienced in both places and communities of interest, leading to further negative outcomes such as social exclusion.

These issues are now considered in more detail, with reference to where data is available to look further at each element.

**Low Income Compared to Most Others in Scotland** – low income is a key driver of a range of negative outcomes and can be defined in a range of ways. Relative poverty (after housing costs) is a useful headline measure, looking at the number of individuals living in households in Scotland with incomes below 60% of UK median income. Statistics on absolute poverty (which looks at whether households’ living standards are changing over time) and persistent poverty (where households live in poverty for 3 years out of 4) are also available. Poverty statistics can in most cases be broken down by age group, and breakdowns by sex, gender, race, disability, tenure and urban/rural are also available. These show minority ethnic groups and households with a disabled adult or child with much higher poverty rates.

Some key links are provided here.

- National statistics are available here: <http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty>
- Breakdowns of poverty statistics are also available via the Scottish Government’s Equalities Evidence Finder here: <http://www.equalityevidence.scot/>
- Local child poverty statistics, down to ward level (using proxy data) are available from the End Child Poverty Coalition here: Child poverty in your area 2014/15–2018/19 – End Child Poverty Joseph Rowntree Foundation (JRF) has published a range of very useful analysis on poverty including on income and benefits. <https://www.jrf.org.uk/income-and-benefits> and specific reports on Poverty in Scotland <https://www.jrf.org.uk/report/poverty-scotland-2019> and <https://www.jrf.org.uk/report/poverty-scotland-2020>
- New Policy Institute has produced useful analysis on disability and poverty for JRF <https://www.npi.org.uk/publications/income-and-poverty/disability-and-poverty/>
- What Works Scotland have reviewed evidence on effective ways to prevent and mitigate child poverty at a local level: <http://whatworksscotland.ac.uk/publications/tackling-child-poverty-actions-to-prevent-and-mitigate-child-poverty-at-the-local-level/>

# Defining ‘Socio-Economic Disadvantage’

However, looking at headline statistics in isolation can sometimes offer a limited perspective on low income. Experience of poverty, for example, is gendered, even though official statistics show broadly similar rates of poverty between men and women. Largely, this is a function of looking at household poverty – in which women’s and men’s incomes are considered together as joint incomes. This conceals key differences, not least women’s lower pay, greater likelihood of part-time working and care responsibilities, and the gender pay gap. It also conceals how different groups of men and women fare: lone parents (mostly women) and single adults who live alone (mostly men) are much more likely to live in poverty. Detailed analysis, then, can help form a more useful picture for tackling inequalities of outcome than headline stats alone, and qualitative evidence is an important means to understand why these differences are apparent.

**Low Wealth** – having access to wealth (including financial products, equity from housing, and a decent pension) provides some protection from socio-economic disadvantage, particularly when the wealth comes in the form of accessible savings. Savings can help households deal with problems that arise on a day-to-day basis. Discussion on inequality often focuses on how unequally income is distributed, but wealth is even more unequally distributed than income.

From the Wealth in Scotland statistics we know that in 2016–2018 the 2% top income households in Scotland had 9% of all income, but the wealthiest 2% of all households in Scotland had 15% of all wealth. On the other end, the bottom 20% of households had 8% of all income, and only 1% of all wealth. Households that are more likely to have above average wealth include pensioner couples, married couples, homeowners, or households with degree-level qualifications. Examples of households that tend to have below average wealth are lone parent households, households in social rented housing, or households where the household reference person is unemployed or economically inactive (but not retired).

- More on wealth inequality can be found here: <http://www.wealthandassets.scot/2020report.html>

**Material Deprivation** – refers to households being unable to access basic goods and services and, in data terms, tends to focus on families with children and on pensioner households. Obviously, if households cannot afford to buy items like home contents insurance, a warm winter coat for children or don’t have money to repair/replace broken electrical goods, this could impact on outcomes. For example, disadvantaged children and young people, who lack access to IT hardware and broadband services at home, may find homework more challenging, and this may then impact on the attainment gap. This inequality was thrown into sharp relief with a greater reliance on remote learning during the COVID-19 pandemic.

# Defining 'Socio-Economic Disadvantage'

Material deprivation has complex links with low income. Some households will be on a low income, but still have the basic necessities they need to get by, perhaps because they built them up over time; or perhaps relatives and friends help out; or they may be able to draw on some savings. Other households may be unable to afford many basic goods and services, even though their income is a bit higher – perhaps because they need to pay off debt, or only recently started a new job after a period of unemployment. Again, there are equality dimensions here too. For households with children, women as traditionally the main carers of children (and sometimes other adults too) may go without themselves to provide for those they are looking after. Minority ethnic families tend to be larger, which means more resources are needed to meet basic needs. Similarly, disabled families – with a disabled adult or child – may need additional help and support to meet basic needs and the specialist help they may need (people and equipment) can often be costly.

- More on material deprivation and low income as it affects children in local areas can be found here (experimental statistics): <http://www.gov.scot/Publications/2017/11/9758> and <https://www.gov.scot/publications/additional-child-poverty-statistics-2020/>
- Public Health Scotland Child Poverty statistics can be found here: <https://www.publichealthscotland.scot/search?q=Child+Poverty+statistics&fq=topics%3AChildren+and+poverty%23>

- Statistics on child poverty, pensioner poverty, poverty for equality groups, and income inequality are available at national level in the annual poverty statistics report: <http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty>

**Area Deprivation** – Living in a deprived area can exacerbate negative outcomes for individuals and households already affected by issues of low income. The most deprived areas face significant challenges; and this is particularly the case for deep-rooted deprivation. For example, those areas that have been consistently among the 5% most deprived in Scotland since SIMD 2004.

- The Scottish Index of Multiple Deprivation (SIMD) is the official Scottish Government tool for identifying areas of multiple deprivation in Scotland. But it is not the only tool and in some contexts it will be important to look at other data and/or combine SIMD data with other evidence to get a full picture. SIMD datasets can be found here: <https://www.gov.scot/collections/scottish-index-of-multiple-deprivation-2020/>

However, socio-economic disadvantage is not always experienced in neat concentrations of people in recognisable communities. Indeed, two out of three people who are income deprived do not live in deprived areas. So while it may be appropriate in many cases to take an approach focused on areas of multiple deprivation, there will also be a need to look at deprivation as it affects particular communities of place or communities of interest.

# Defining ‘Socio-Economic Disadvantage’

**‘Communities of place’** refers to people who are bound together because of where they reside, work, visit or otherwise spend a continuous portion of their time. For example, people in particular rural, remote and island areas face a particular set of circumstances which exacerbate disadvantage. Poorer people in those areas will have different experiences from better-off residents, but also from poorer people living in cities. Poverty is often hidden in smaller communities; cost of living and accessibility of transport, education and employment impact more negatively on rural populations.

- The work done on minimum income standard for remote, rural Scotland may be useful. [Highlands and Islands Enterprise | HIE](#)

**‘Communities of interest’** can refer to groups of people who share an experience. For example, consideration of the impact of strategic decisions on people who have experienced homelessness or the care system may help develop a deeper understanding of possible socio-economic impacts. Those who share one or more of the protected characteristics listed in the Equality Act 2010 can also be considered communities of interest. Those who share an identity – for example, lone parents – can similarly be communities of interest too.

Data for small populations is often problematic because of sample sizes or where data does not exist, but these are areas where raising awareness by talking to people with direct experience will be particularly important.

**Socio-Economic Background** – the structural disadvantage that can arise from parents’ education, employment and income – social class, in other words – is a final key factor in socio-economic disadvantage. For instance, while two freelancers or graduates might start with comparable incomes or qualifications, an individual from a deprived background could be less likely to succeed or progress than one whose middle-class upbringing gives them more extensive networking skills and contacts, greater awareness of opportunities and sources of support, or greater confidence in their abilities. Some health conditions in adult life may be more prevalent or severe among those from a more deprived background. However, socio-economic background can be more difficult to measure since relatively few surveys gather data on parental occupation or income.

In summary, then, socio-economic disadvantage is focused on low income, low wealth, material deprivation and area deprivation – with communities of interest and of place as cross-cutting issues.

Socio-economic background represents a mechanism by which disadvantage can persist across generations.

# Defining ‘Inequalities of Outcome’

The Duty is intended to reduce the **inequalities of outcome** caused by socio-economic disadvantage. The earlier a Duty assessment takes place the more likely it is to reduce inequalities of outcome. By inequalities of outcome, we mean any measurable differences between those who have experienced socio-economic disadvantage and the rest of the population – for example, in relation to health and life expectancy or educational attainment. Socio-economically disadvantaged households have a higher risk of experiencing negative outcomes.

The Duty applies to all strategic decisions irrespective of whether the decision is focused on addressing poverty or inequality. For example, the primary purpose of Scotland’s Census 2022 is “to collect, preserve and produce information about Scotland’s people and history and make it available to inform current and future generations”. However, the Duty assessment<sup>5</sup> on this work identified the potential for high rates of non-response among individuals experiencing socio-economic disadvantage, as well as measures to reduce this inequality including stakeholder engagement, enabling completion of the census questionnaire via smartphone and tailored communications.

By delivering their services, those bodies subject to the Duty can improve outcomes for their clients/service users, and it is important to think about socio-economic circumstances when making strategic decisions which will inform how services are delivered and targeted. It is not simply about how many people receive a service but the impact that the service has on their lives, for example increasing wage levels or job quality thereby increasing income, contributing to better physical and mental health and reducing the risk of homelessness.

The Duty is outcome-focused and examples of inequality of outcome include:

- **Connectivity** – we want households to have equal access to the internet. But while 99% of households with a net annual income above £40,000 had internet access, this dropped to 65% for households with a net annual income of £10,000 or less. Access differs by area of deprivation with 82% of households in the 20% most deprived areas in Scotland having internet access at home compared with 96% of households in the 20% least deprived areas.<sup>6</sup>
- **Income** – we ideally want everyone to have enough income to be able to save. In 2016-18 a typical household in Scotland had £5,500 in financial wealth after any non-mortgage debt was deducted and a household in the wealthiest 10% had on average £215,000. But a household in the bottom 20% had negative financial wealth;<sup>7</sup> in other words, they were in debt overall. This means households

5 [Scotland’s Census 2022 Fairer Scotland Duty Impact Assessment \(Dec 20\)](https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2020/09/scottish-household-survey-2019-annual-report/documents/scotlands-people-annual-report-2019/scotlands-people-annual-report-2019/govscot%3Adocument/scotlands-people-annual-report-2019.pdf?forceDownload=true) (scotlandscensus.gov.uk)

6 <https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2020/09/scottish-household-survey-2019-annual-report/documents/scotlands-people-annual-report-2019/scotlands-people-annual-report-2019/govscot%3Adocument/scotlands-people-annual-report-2019.pdf?forceDownload=true>

7 [https://data.gov.scot/wealth//2020report.html#3\\_financial\\_wealth\\_and\\_debt](https://data.gov.scot/wealth//2020report.html#3_financial_wealth_and_debt)



# Defining 'Inequalities of Outcome'

facing an emergency risk getting into debt trying to resolve it. Evidence on the impacts of the COVID-19 pandemic showed that lower income households were 50% more likely to save less compared to higher income households and twice as likely to have increased their debts.<sup>8</sup>

— **Employment** – in 2018/19, more than half of all people (and two-thirds of children) in relative poverty in Scotland lived in working households. There are substantial inequalities in income and employment in Scotland, e.g. after adjusting for household size, weekly incomes in 2016-19 varied from £192 in the poorest households to £912 in the richest households. People working in certain jobs (including customer services, the building trades) and certain industries (including food and beverage services, transport and storage) are at greater risk of multiple disadvantage from a constellation of low pay, limited opportunities, lack of control and sometimes risky working conditions.<sup>9</sup> Underemployment, whether it is a result of taking lower paid jobs to accommodate adult/child care, working on zero hour contracts or graduates working in 'non-graduate' jobs, is a growing issue leading to widening gaps in outcomes for a range of people, particularly young people, minority ethnic people, disabled people and women.

- **Education** – we ideally want disadvantaged pupils' educational outcomes to be the same as for pupils from non-disadvantaged backgrounds. But only 44% of school leavers in the most deprived areas are qualified to Higher level or above, compared with 79% of Scottish school leavers in the most affluent areas. Exclusion rates were higher for Gypsy/Travellers, disabled pupils, those with additional support needs and pupils living in the most deprived areas.<sup>10</sup>
- **Health** – more than a quarter (26%) of those in living in the poorest fifth of households reported less than good health for their children in the first four years of life, compared to just 12% of those in the richest fifth<sup>11</sup> and between March and September 2020 death rates for COVID-19 in Scotland were twice as high for people living in the 20% most deprived areas compared to the 20% least deprived areas.<sup>12</sup>
- **Life Expectancy** – we would ideally want this to be the same for men and women no matter where they live. However, men's life expectancy is less than women's. Furthermore, men living in the 10% most deprived areas are expected to die 13.1 years earlier than those living in the 10% least deprived areas (69.6 compared to 82.7 years). Similarly, women living in the most deprived areas are expected to die 9.8 years earlier than those living in the least deprived areas (75.6 compared to 85.4 years). Life expectancy has stalled in Scotland since around 2012 and remains the lowest of all the UK countries.<sup>13</sup>

8 [Scotland's Wellbeing: The Impact of COVID-19 - Chapter 4: Communities, Poverty, Human Rights | National Performance Framework](#)

9 <https://www.scotpho.org.uk/life-circumstances/income-and-employment/key-points/>

10 <https://www.gov.scot/publications/summary-statistics-attainment-initial-leaver-destinations-no-2-2020-edition/pages/6/>

11 <https://www.gov.scot/publications/growing-up-scotland-health-inequalities-early-years/pages/5/>

12 <https://www.nrscotland.gov.uk/files/statistics/covid19/covid-deaths-data-week-41.xlsx>

13 <https://spice-spotlight.scot/2020/01/22/stalling-and-declining-life-expectancy-in-scotland/>

# Defining 'Inequalities of Outcome'

- **Mental health** – compared with those in the least deprived 20% of areas in Scotland, adults living in the most deprived 20% of areas are much more likely to have common mental health problems and to be prescribed drugs for them (26% vs. 14% in both cases).<sup>14,15</sup> This inequality means that people living in socio-economic disadvantage are less able to cope with the impact of crises such as the 2008 economic crash or the COVID-19 pandemic.
- **Overweight/obesity** – obesity in Scotland shows a strong link with inequality.<sup>16</sup> Lower socio-economic status is associated with higher levels of obesity with around 32% of adults living in the most deprived areas being obese, compared with 20% of those living in the least deprived areas. Women and children in the most deprived areas are particularly affected by more extreme obesity.
- **Communities** – we want people to be satisfied with their neighbourhoods, wherever they are in Scotland. However, in 2017 only 53% of residents with the lowest 20% of incomes<sup>17</sup> in Scotland rated their neighbourhood as a very good place to live, compared to 65% of those with the highest 20% of incomes. We also want no-one to be a victim of crime. However, the likelihood of this is greater for adults in the 15% most deprived areas compared to those living elsewhere in Scotland (16.0% compared to 11.8%).<sup>18</sup>
- **Homelessness** – this is both a cause and a result of social inequality, health inequality and poverty. Homelessness can be driven by individual vulnerabilities or support needs, for example, mental ill health, learning or physical disability, a medical condition, family/relationship breakdown, drug or alcohol dependency, lack of basic housing management or independent living skills and experience of institutional care. Experience of socio-economic factors of financial hardship, poverty, loss of job, lack of affordable housing, welfare reforms and housing in poor condition can also lead to homelessness. This is a complex area where inequality of outcome is driven by socio-economic disadvantage in combination with other factors, or where the inequality in outcome subsequently further drives socio-economic disadvantage. We want homelessness to be a thing of the past.

In seeking to meet the Duty, we would expect public bodies to tackle the range of inequalities of outcome they observe in their areas or that are specifically relevant to their core functions. In some cases, as shown in the previous diagram, an effective way to do this will mean tackling socio-economic disadvantage directly by, for example, reducing poverty.

14 [https://www.scotpho.org.uk/opt/Reports/Mental%20Health%20Profiles%20for%20Adults\\_5663.pdf](https://www.scotpho.org.uk/opt/Reports/Mental%20Health%20Profiles%20for%20Adults_5663.pdf)

15 [https://scotland.shinyapps.io/ScotPHO\\_profiles\\_tool/](https://scotland.shinyapps.io/ScotPHO_profiles_tool/)

16 <http://www.healthscotland.scot/health-topics/diet-and-healthy-weight/obesity>

17 <https://www.gov.scot/publications/scottish-household-survey-2019-key-findings/pages/6/>

18 <https://www.gov.scot/publications/scottish-crime-justice-survey-2018-19-main-findings/pages/6/>

# Defining ‘Strategic Decisions’

The Duty applies to **Strategic Decisions** – these are the key, high-level decisions that the public sector takes, such as deciding priorities and setting objectives. Many of these decisions may be made in the context of public service reform and improving outcomes for people and communities. In general, they will be decisions that affect how the public body fulfils its intended purpose, often over a significant period of time. Although, it is recognised that strategic decisions can also be made over the short or mid-term, particularly when responding to urgent emerging circumstances. They may also be coordinated with other strategic decisions as part of an overarching plan. These would normally include strategy documents, decisions about setting priorities, allocating resources, delivery or implementation and commissioning services – all decisions agreed at Board level (or equivalent). The Duty also applies to any changes to, or reviews of, these decisions, not just the development of new strategic documents.

For some organisations, such decisions may only be taken occasionally, perhaps once a year. In other cases, they will come up more often. Strategic decisions will have a major impact on the way in which other tactical and day-to-day operational decisions are taken; but they are not in themselves tactical or operational.

Below, we list a range of areas that are considered to be strategic decisions. This should not be seen as an exhaustive list. Each organisation subject to the Duty must identify for themselves the strategic decisions they make.

- Preparation of the Local Development Plan
- Preparation of a Corporate Plan
- City deals or other major investment plans and associated projects
- Preparing legislation
- Development of new strategic frameworks
- Development of significant new strategies, policies or proposals e.g.:
  - Community Engagement Strategies
  - Community Learning and Development Strategic Plans
  - Integrated Joint Board Strategic Plans
  - Community Justice Outcome Improvement Plans
  - Children and Young People’s Plans
  - Children’s Services Plans
  - Child Poverty Action Plans
  - Adult Health and Social Care Plans
  - Procurement Strategies/Community Benefit Clauses
  - Education strategies
  - Third Sector Concordat Action Plans
  - Poverty Strategies
  - Alcohol and Drug Partnership Plans
  - Local Transport Strategies
  - Local Housing Strategies



# Defining ‘Strategic Decisions’

- Preparation of an annual budget
- Significant budget proposals including cuts and level of aid given
- Disinvestment – at any level
- Major procurement exercises
- Decisions about the shape, size and location of the estate
- Preparing a Local Outcomes Improvement Plan as part of a Community Planning Partnership (CPP)
- Preparing locality plans
- Commissioning and decommissioning of services
- Funding plans
- Development/implementation of charging policies
- Recruitment, selection and development policies
- Development of equality outcomes
- Making **strategic decisions** on workforce planning
- During service redesign/transformation
- Plans for housing development

Where there is a hierarchy of related decisions across multiple public bodies, the key responsibility to meet the Duty rests with the body for whom the decision is strategic. For instance, if the Duty applies to a local authority completing their Strategic Development Plan (SDP) the SDP will have implications for subsequent local authority decisions such as those around implementation. If Scottish Ministers are required to sign this off, their decision to do so will not necessarily impact on the way other Scottish Government decisions are taken; instead, they would consider the authority’s Duty assessment when reaching their decision.

If, within a partnership, there is more than one body subject to the Duty, then it would be up to those bodies subject to the Duty to prepare a Duty assessment of the partnership’s **strategic decision**. Any one of these organisations could prepare the Duty assessment, but the completed assessment must be agreed and approved by all the bodies covered by the Duty to ensure that they are each legally discharging their Duty through consideration of how the elements of the decision for which they have responsibility can reduce inequalities of outcome caused by socio-economic disadvantage. When a partnership includes bodies not covered by the Duty, it would also be good practice to involve those bodies in the approval process.

Of course, consideration of how to reduce socio-economic inequalities can obviously improve any decision-making, whether the decision in question is strategic or not, and whether or not a programme/proposal/decision directly addresses such disadvantage. So, while the statutory focus of the Duty is on strategic decision-making, the ultimate aim of the Duty – as with our equality responsibilities – is for consideration of the inequalities associated with socio-economic disadvantage to be mainstreamed.

# Defining ‘Due Regard’

The concept of ‘**due regard**’ should be well understood by public bodies in relation to the equality duties they already need to meet. Due regard in relation to the Duty should be considered in a similar way. Here are some key considerations to bear in mind:

**Active consideration.** To ‘have due regard’ means that, in making any **strategic decision**, a public authority subject to the Duty must actively consider, with an open mind, whether there are opportunities to reduce inequalities of outcome caused by socio-economic disadvantage. This is not a tick-box exercise. Serious consideration must be given – and as early in the decision-making process as possible. That’s why we’ve suggested in this guidance that an **appropriate officer** must be involved in any assessment process under the Duty. There is also an expectation that ‘due regard’ is given both by staff at the formation of any strategy/plan/programme and by decision-makers at its adoption.

**Participation.** It may be easier to demonstrate that due regard has been paid if any assessment involves those who may be directly affected by the decision under consideration. The Equality Act 2010 does not set a legal requirement to involve communities in meeting the Duty, but the EHRC recommends it.<sup>19</sup> Participation is also a human rights principle. This is central to good policy making and aligns with the principle of co-production referenced in the Scottish approach to policy making,<sup>20</sup> or the requirement in the Community Empowerment (Scotland) Act 2015 for public bodies to involve communities in planning activities.

**Proportionality.** How much regard is due will depend on the relevance of the decision to the scale of socio-economic disadvantage and inequalities of outcome in relation to each strategic issue.

**Due regard** does not mean there is an obligation to achieve a result. Public bodies are not required to reduce inequalities of outcome as part of any decision made under the Duty. There may be a range of good reasons why it’s not possible to seek to do so in any particular case. In this event, it would be prudent for a written assessment to outline why this is the case.

Results are, however, important. If it is possible for public bodies to make changes to a programme/proposal/decision to reduce inequalities of outcome, and there are no compelling reasons for not doing so, due regard would suggest that those changes should be made.

A record of the decision-making process is also important. To ensure that public authorities can demonstrate that they have paid due regard, a record of the assessment process should be written up and made publicly available.

<sup>19</sup> <https://www.equalityhumanrights.com/en/publication-download/involvement-and-public-sector-equality-Duty-guide-public-authorities-scotland>

<sup>20</sup> [Scottish Co-production Network \(coproductionscotland.org.uk\)](http://www.scottishco-production.org.uk)

# Defining 'Due Regard'

**Public bodies can be held to account under the Duty.** As with the Public Sector Equality Duty, if a public body fails to give due regard as required, any individual who is affected could bring a Judicial Review arguing that the authority had failed to meet a statutory duty. The EHRC could also bring a Judicial Review against a body who fails to meet the Duty, as its method of enforcement. However, the Equality Act 2010 does not make provision for 'socio-economic discrimination' – socio-economic status is not a protected characteristic in terms of the Act – and therefore no claim of that type could be made.

## Seven useful questions to consider when seeking to demonstrate 'due regard' in relation to the Duty:

1. What evidence has been considered in preparing for the decision, and are there any gaps in the evidence?
2. What are the voices of people and communities telling us, and how has this been determined (particularly those with lived experience of socio-economic disadvantage)?
3. What does the evidence suggest about the actual or likely impacts of different options or measures on inequalities of outcome that are associated with socio-economic disadvantage?

4. Are some communities of interest or communities of place more affected by disadvantage in this case than others?
5. What does our Duty assessment tell us about socio-economic disadvantage experienced disproportionately according to sex, race, disability and other protected characteristics that we may need to factor into our decisions?
6. How has the evidence been weighed up in reaching our final decision?
7. What plans are in place to monitor or evaluate the impact of the proposals on inequalities of outcome that are associated with socio-economic disadvantage?

'Making Fair Financial Decisions' (EHRC, 2019)<sup>21</sup> provides useful information about the 'Brown Principles' which can be used to determine whether due regard has been given.

When engaging with communities the National Standards for Community Engagement<sup>22</sup> should be followed. Those engaged with should also be advised subsequently on how their contributions were factored into the final decision.

<sup>21</sup> <https://www.equalityhumanrights.com/en/advice-and-guidance/making-fair-financial-decisions>

<sup>22</sup> <https://www.scdc.org.uk/what/national-standards>.

<https://www.hisengage.scot/engaging-differently> which was developed in response to the COVID-19 pandemic.

# Equality, Human Rights and Child Poverty

The bodies listed under the Fairer Scotland Duty are already covered by the Public Sector Equality Duty and the Human Rights Act 1998. This means there is an opportunity to build on and improve existing practice on equality and human rights when working on the Duty.

Local authorities and health boards also have responsibilities in relation to child poverty – but all of the public sector will be expected to help meet the aims of the **Child Poverty (Scotland) Act 2017**. This means that there are also opportunities to focus on reducing child and family poverty when considering how to meet the Duty. The types of households that are known to be at higher risk of child poverty include lone parents, minority ethnic families, families with 3+ children, disabled adults or children, children aged under one or parents aged under 25.

Although the Duty is derived from the Equality Act 2010 (the 2010 Act), it is separate from the Public Sector Equality Duty (PSED), which requires public bodies to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act;
- advance equality of opportunity between persons who share a relevant protected characteristic (as defined by the 2010 Act) and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

But while they are separate, there are clear links between the aims of both Duties. As noted earlier in this guidance, 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 are not considered through an equality lens. For example, the EHRC report 'Is Scotland Fairer 2018?' highlights that disabled people, people with mental health conditions and people from minority ethnic groups were more likely to live in poverty. The majority of children living in poverty were from working households. Women and disabled people were more likely to experience severe material deprivation.<sup>23</sup>

It is important therefore, to consider protected characteristics and how socio-economic disadvantage interacts with these in regard to inequality of outcome experienced as a result of discrimination and lack of equality. Understanding the multiple, overlapping inequalities and discriminations a person experiences allows us to better understand that we do not exist in silos. Intersectional approaches to policy and decision-making are important if we are to develop a Fairer Scotland for all.

With the above in mind, equality groups will be important 'communities of interest' for any socio-economic assessment public bodies undertake. Sometimes communities of interest may also overlap with communities of place. For example, where a relatively larger proportion of minority ethnic households live in a particular deprived area.

<sup>23</sup> <https://www.equalityhumanrights.com/en/publication-download/scotland-fairer-2018>

# Equality, Human Rights and Child Poverty

Having said this, managing the two Duties may prove challenging in some cases. Applying the Duty complements the PSED, but it's important to note that it does not supersede or replace it.<sup>24</sup> Although socio-economic disadvantage may be a differential outcome for protected characteristics groups to be considered under the PSED, it is not a protected characteristic in itself so it is important that it is also fully considered under the Duty as a basis for inequality in its own right. These two parallel processes can work together successfully in practice, ideally with each strengthening the other. For instance, consideration of an employment policy both in terms of how it can lead to greater parity between men and women, but also how it can improve outcomes for women in lower income households as effectively as for women in higher income households. An example of a systematic approach to considering evidence around both protected characteristics and socio-economic disadvantage is the 2020 assessment for Scotland's Route Map out of the COVID-19 crisis.<sup>25</sup>

It should be ensured that the evidence-gathering required to inform each assessment is not reduced through considering the Duties simultaneously. For instance, views from a consultation with low-income householders may not access the particular experiences of minority ethnic groups experiencing poverty, even if some of those groups took part; on the other hand, consultation with a minority ethnic community may not engage poorer households within that community. To inform both Duties fully, separate strands of evidence gathering should be planned.

Approaching this Duty in the right way will also help public bodies meet their obligations under the Human Rights Act 1998 (HRA) and international human rights law and to deliver their services appropriately. Under the HRA, it is unlawful for public bodies in Scotland to act incompatibly with the Convention rights, and they also have obligations as part of the state to give effect to international human rights treaties signed and ratified by the UK. International treaties with rights regarding economic and social circumstance are as follows:

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination against Women
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities

<sup>24</sup> The EHRC provides information on applying the PSED here: <https://www.equalityhumanrights.com/en/equality-act/equality-act-2010> and here <https://www.equalityhumanrights.com/en/advice-and-guidance/guidance-scottish-public-authorities>.

<sup>25</sup> <https://www.gov.scot/publications/equality-fairer-scotland-impact-assessment-evidence-gathered-scotlands-route-map-through-out-crisis/>



# Equality, Human Rights and Child Poverty

The United Nations (UN) has been supportive of the introduction of the Duty. The Scottish Government updates the UN on progress towards implementing and observing international human rights standards by including a distinctive Scottish contribution in formal UK reports to the UN Committee on Economic, Social and Cultural Rights. The Scottish Government was also represented as part of the UK delegation in Geneva during a review of the UK under the Covenant in June 2016. Following this review, the UN Committee included the following recommendation in its set of concluding observations:<sup>26</sup>

“The Committee recommends that the State party bring into force the relevant provisions of the Equality Act that refer to the public authorities’ duty with respect to socio-economic disadvantage, as well as with respect to the prohibition of intersectional discrimination, in order to enhance and guarantee full and effective protection against discrimination in the enjoyment of economic, social and cultural rights.”

A National Taskforce for Human Rights was established by the Scottish Government in early 2019, in response to the recommendations made in December 2018 by the First Minister’s Advisory Group on Human Rights.<sup>27</sup> The Taskforce will work to establish a statutory framework for human rights that can bring internationally recognised human rights into domestic law and protect the human rights of every member of Scottish society. In particular it is intended to incorporate the International Covenant on Economic, Social and Cultural Rights<sup>28</sup> into domestic law. This includes the right to protection against poverty and social exclusion which is of particular relevance to the Duty and will give additional impetus to it. Scotland is also set to become the first country in the UK to directly incorporate the UN Convention on the Rights of the Child (UNCRC) into domestic law. The UNCRC (Incorporation) (Scotland) Bill was unanimously passed by the Parliament on 16 March 2021 and was then referred to the Supreme Court. Therefore, it will receive Royal Assent and be brought into force in accordance with the outcome of that reference, once that decision has been received.

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<sup>26</sup> <https://digitallibrary.un.org/record/3859788?ln=en#record-files-collapse-header>

<sup>27</sup> <https://humanrightsleadership.scot/>

<sup>28</sup> <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>



# Meeting the Duty

# How can public bodies meet the Duty in practice?

Tackling socio-economic disadvantage and narrowing gaps in outcomes are core to what public bodies do, so the Duty should not be particularly burdensome. Indeed, the aim of the Duty is to encourage better decision-making and ultimately deliver better outcomes for those who are socio-economically disadvantaged. It should also be a means of ensuring public authorities take economic and social rights into account. This guidance has been designed to build on existing practice as far as possible.

Aside from the key requirement, public bodies are able to approach meeting the Duty as they see fit. The Scottish Government wants to encourage innovation in how public bodies meet the Duty and welcomes different approaches. However, guidance on how public bodies can meet the Duty is set out in the following pages.

**At the heart of the Duty is the key requirement that public bodies must:**

**actively consider**, at an appropriate level, what more they can do to reduce the inequalities of outcome, caused by socio-economic disadvantage, in any strategic decision-making or policy development context,

and we recommend they should **publish a written assessment**, showing how they've done this.

**In doing this, public bodies must approach the Duty in a way that:**

- \*Is not a tick-box exercise but is meaningful
- \*Takes place well before reaching a decision and influences that decision
- \*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), and
- \*Helps bring about demonstrable change.

Annex A contains an Evaluation Tool that can be used to help you assess how well your organisation is meeting the Duty. It is not mandatory to use this Tool and you can adapt it if required to better meet the needs of your organisation.



# Organisational readiness

In its research report 'Evaluating the Socio-economic Duty in Scotland and Wales'<sup>29</sup> the EHRC identified various overlapping factors in helping public bodies prepare for, and meet the Duty, including:

**Leadership:** positive buy-in from senior managers and board members was cited as being important in driving forward the Duty and ensuring it was treated as a priority across organisations. This includes empowerment of boards/elected members to properly scrutinise work on the Duty within organisations, asking the right questions and having the confidence to ask for information in order to provide proper scrutiny.

**Awareness Raising:** in order to achieve positive buy-in at all levels, a good level of awareness raising is required, particularly at senior manager, director/chief executive and board levels. There are materials available on the Fairer Scotland Duty Knowledge Hub<sup>30</sup> which can assist with carrying out training and materials and webinars will be made available on an ongoing basis.

**Training:** in tandem with awareness raising, training is also useful in ensuring that those at a senior level fully understand the Duty and their responsibilities, as well as for employees responsible for gathering data, conducting engagement exercises and carrying out impact assessments. This training can be provided internally or by external sources. Annex C contains a range of resources available to assist with raising awareness and knowledge of the Duty.

**Developing a Fairer Scotland Duty methodology:** the development of a framework, guidance and/or templates which prompt consideration of the Duty at the outset of any strategy development is considered helpful in meeting the Duty, both for those completing the reports/preparation work and to prompt Board members to consider it during the decision-making process.

**Outcome Focused:** Monitoring and measuring outcomes will help demonstrate the effectiveness of the Duty and the narrowing of inequalities of outcome experienced by people living in socio-economic disadvantage.

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<sup>29</sup> <https://www.equalityhumanrights.com/en/publication-download/evaluating-socio-economic-duty-scotland-and-wales>

<sup>30</sup> To access the Knowledge Hub [register](#) first then search for the Fairer Scotland Duty KHub and submit a joining request.

# Preparing to meet the Duty

Public bodies can prepare for the Duty by addressing the following key considerations from the moment they start to develop a programme/proposal/decision:

**Resource and co-ordination:** carrying out a Duty assessment is a group exercise and should be appropriately resourced and co-ordinated. The group should include those involved in developing and taking the proposed **strategic decisions**, bringing together different perspectives on the topic being discussed. A sound understanding of what is proposed is essential to allow the assessment to be completed successfully and inform the decision. At least one member of the group should have undertaken training on how to undertake an assessment.

**Start early:** it is important that you consider the Duty before decisions are taken and as early in the process as possible. Assessing **strategic decisions** in light of the Duty is not an end in itself but should be an integral part of development and decision-making. This means that the assessment process must happen before a proposal for a **strategic decision** is finalised, preferably early in its development but when the proposal and any alternatives are clear enough to be able to make a reasonable assessment. If the proposal then changes significantly, the assessment should be updated to reflect this. The assessment cannot be retrospective, or undertaken only near the end of the process, but instead should be seen as integral to the development process and able to inform the consultation process.

**Evidence of likely programme/proposal/decision impacts:** as set out in the examples provided in the section on Defining Inequalities of Outcome, there are a range of poorer outcomes experienced by communities across Scotland as a result of socio-economic disadvantage. It is important when carrying out a Duty assessment (as with all impact assessments) to consider evidence for the impact of options and decisions, not just the background evidence of inequalities experienced. There is a raft of information and evidence of what can work in tackling socio-economic disadvantage and the inequalities it causes which could inform your assessment. It will also help to take a collaborative approach, working across all public bodies in your area subject to the Duty, sharing information, expertise and engagement with communities. This can help unpick and share data to support one another to undertake robust assessments. Evidence from those with lived experience of socio-economic disadvantage on how they might be affected by different options and what would work best for them is particularly important for decision-makers to hear. Remember however that it is vital to go back to those engaged with, in order to confirm how their contributions were factored into the final decision. There is further guidance on engaging with communities in the evidence section below.

# Preparing to meet the Duty

A definition of **socio-economic disadvantage** has been set out earlier in this guidance. Public bodies are working within their own specific contexts so may wish to use this definition but are able to adapt it as a starting point for future decision-making involving the Duty. For example, public bodies working across Community Planning Partnerships may already have a definition in use or they may want to work together on developing a shared one. Once defined, the public body should usefully describe the patterns of socio-economic disadvantage within its areas of interest.

Public bodies should determine what the key **inequalities of outcome** are, from their perspective. Crucially these should be inequalities of outcome the public body could realistically do something about. A key focus here should be thinking through the links between socio-economic concerns and equality outcomes – this is an ideal opportunity to bring together issues of sex, race, and disability (for example) with issues of socio-economic and place-based disadvantage. For many public sector bodies, key inequalities of outcome have been identified in Local Outcomes Improvement Plans and associated Locality Action Plans.

Public bodies should identify which **strategic decisions** are taken as a matter of course. Many public authorities already routinely do this when considering their role and contribution to partnership working and in helping to shape the priorities for specific places which will be set out in shared plans, for example Local Outcome Improvement Plans. Identifying which strategic decisions tend to be taken when should help public bodies with their planning processes.

Through all the stages, it is important to involve relevant communities, particularly people with direct experience of poverty and disadvantage. Note too that the costs of involving some groups – for example, disabled people – can often be higher, as barriers to their participation need to be overcome. Some areas have Poverty Truth Commissions which engage local people to fully explore issues and solutions at a local level. These can be helpful in informing assessments. There will be a range of organisations in local areas who engage with those experiencing socio-economic disadvantage and it will help to bring direct experience to your assessments by working with these organisations. Your local third sector interface<sup>31</sup> may be able to help put you in touch with local organisations. Community Planning Partnerships and partnership delivery of locality plans should involve engagement with communities, and these are other useful mechanisms which can be taken advantage of to ensure that decisions made help to improve outcomes, or at least do not make outcomes worse. It is always important to feed back to those engaged with on how their contributions were factored into the final decision.

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<sup>31</sup> <https://www.gov.scot/publications/third-sector-interfaces-contact-details/>

# Meeting the Duty day-to-day

# Meeting the Duty day-to-day

This section sets out an example process for meeting the Duty on a day-to-day basis.

These steps are intended to be similar to those used by many public bodies for equality impact assessment (EQIA),<sup>32</sup> as part of the PSED. This should mean it's straightforward for public bodies to fit the Duty into its day-to-day processes. You may wish to reference your work on implementing your Duty in your Equality Mainstreaming reports given the cross cutting nature of the issues.

Since the introduction of the Duty, we have seen examples where a draft Duty assessment has been undertaken and published and then refreshed over the course of the policy development and implementation; or, an initial statement has accompanied an early stage 'vision' document to indicate that a Duty assessment will be undertaken at a later stage in the policy development process. This approach can allow repeated consideration of evidence, and facilitate scrutiny, at different stages in policy development. For instance, a draft Duty assessment for Scotland's Census 2022 published in advance of a rehearsal and consultation provided information on implications for inequality.<sup>33</sup> This was then reviewed in light of evidence from those exercises.

Publishing a Duty assessment supports transparency, allowing communities, other public bodies and regulators to see that you are paying due regard and appropriately considering socio-economic disadvantage and inequality in all of your **strategic decisions**. The involvement of those whom the **strategic decision** will affect supports democratic and transparent decision-making.

Examples of Duty assessments are posted in the Fairer Scotland Duty Knowledge Hub and can be searched for on the Scottish Government's Publications page. To access the Knowledge Hub please register first, then search for the Fairer Scotland Duty KHub and submit a joining request.

A summary diagram of the recommended process follows and is explained in more detail over the following pages.

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<sup>32</sup> As required by regulation 5 of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012  
<sup>33</sup> [https://www.scotlandscensus.gov.uk/documents/Draft\\_Fairer\\_Scotland\\_Duty\\_Impact\\_Assessment.pdf](https://www.scotlandscensus.gov.uk/documents/Draft_Fairer_Scotland_Duty_Impact_Assessment.pdf)

# Meeting the Duty day-to-day



Many organisations use an Integrated Impact Assessment which considers a range of duties and requirements at the same time (e.g. Equality Impact Assessment, Children's Rights Impact Assessments, Fairer Scotland Duty Assessment, Islands Impact Assessment, Health Impact Assessment, Human Rights Assessment), bringing all the evidence available together and looking across the various duties. Other organisations carry out Fairer Scotland Duty assessments as a standalone process. Whichever process is used it is important to ensure that the legal requirements are met and the process is not a tick-box exercise.

# Stage 1 – Planning

The Planning Stage of the process enables public bodies to determine whether the Duty applies and, where it does, to start planning how to meet it. The Duty assessment process should begin at the same time as the programme/proposal/decision development process begins.

The key question to ask at this stage is: **Is this a strategic programme/proposal/decision or not?** If it is not strategic, there is no formal requirement for it to be subject to the Duty. However, public bodies may wish to consider socio-economic factors in their planning in any case, as good practice. There may of course still be a requirement for due regard under the PSED and appropriate equality impact assessment.

If the decision is clearly not strategic and there is no perceived benefit from a Duty assessment, **move to Stage 5**. You should complete an 'Assessment Not Required Declaration' and have this signed by an appropriate officer. A suggested template is set out at Annex B.

If it is strategic, there are three initial tasks to complete.

- First, develop a plan for the remaining stages below, ensuring that there is sufficient time to do so. Note that the public body will need to pay due regard during the development of the proposal, not simply when the decision is being taken. This means starting your assessment as early as possible.
- Second, confirm the aims and expected outcomes of the programme/proposal/decision and identify any alternative options.
- Third, ensure the right range of people are engaged to take part in the assessment process and alert any other appropriate officers in the organisation that the assessment is now underway and that it may affect the final decision to be made.
- Once you've done that, **Move to Stage 2**.



## Stage 2 – Evidence

The Evidence Stage of the process is where public bodies should make full use of the data they hold or can access as they consider how to exercise their responsibilities under the Duty. The evidence used should be robust, relevant and fully considered. It should not be set out to support a pre-determined position.

### The key questions to ask at this stage are:

- What outcome(s) is the programme/proposal/decision trying to achieve?
- What does the evidence suggest about the programme/proposal/decision's actual or likely impacts on socio-economic disadvantage and the key inequalities of outcome under consideration?
- Are some communities of interest or communities of place more affected by disadvantage in this case than others? What does our EQIA planning work – for this issue and previously – tell us about sex, race, disability and other protected characteristics that we may need to factor into our decisions.
- What existing evidence do we have about the proposal being developed, including what could be done differently?
- Is there evidence of the types of options that might have a more positive impact in respect of socio-economic disadvantage?
- Are there particular barriers that are likely to reduce service uptake among socio-economic disadvantaged groups?
- Is it possible to commission or collect new evidence in areas where we don't currently have any? For example, through consultation meetings, focus groups or omnibus surveys?
- The voices of people and communities will be important here. What is the best way to involve communities of interest (including those with direct experience of poverty and disadvantage) in this process?



## Stage 2 – Evidence

Most public bodies already have access to a wide range of relevant data (both quantitative and qualitative), from a range of sources on existing disadvantage and inequality. Sources for evidence on disadvantage includes administrative data, data about local neighbourhoods (e.g. Scottish Index of Multiple Deprivation), local child poverty estimates, new experimental statistics on combined low income and material deprivation (now available at local level); while health, education or employment data can provide evidence on key inequalities of outcome. Some public bodies will have access to richer data than others. For example, local authorities may be able to use Council Tax Reduction, free school meals and Housing Benefit data that others may not have access to. There is a resources section at the end of this guidance with more details of available data sources. Another type of evidence is on the actual or likely impacts that the decision might have on socio-economic disadvantage and inequalities of outcome, including what could be done differently. This can come from evaluation of similar previous decisions or interventions in other public bodies or jurisdictions, trials or other academic research. For instance, the Duty assessment for the Deposit Return Scheme for Scotland drew on evidence from trials of different models in other countries to consider which option might lead to the best outcomes for households in Scotland experiencing poverty.<sup>34</sup>

Strategic decisions can result in a range of direct and indirect consequences which are not always well understood.

Where no evidence is available, it may be possible to generate this via focus groups, omnibus surveys or consultation exercises. Evidence should also be sought from communities and groups directly, particularly when there are evidence gaps. For example, where a significant new programme/proposal/decision is being developed. If they are provided with a clear account of the policy options and what they are intended to achieve, disadvantaged groups can help frame what this will mean for people like themselves. Gathering the views of people experiencing poverty to inform new programmes/proposals/decisions can help them feel included in decisions likely to affect them – the principle of ‘nothing about us without us’ – and that this may improve their situation. Individuals with experience of poverty have a unique understanding of the issues they face, and decisions that take account of this expertise will be most effective in addressing inequality.

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<sup>34</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-paper/2019/09/deposit-return-scheme-scotland-regulations-accompanying-statement-proposed-regulations/documents/fairer-scotland-impact-assessment/fairer-scotland-impact-assessment/govscot%3Adocument/fairer-scotland-impact-assessment.pdf>

## Stage 2 – Evidence

The Poverty Alliance's Get Heard Scotland Toolkit has been designed to help groups and organisations undertake discussions about poverty in Scotland.<sup>35</sup> It can be used to gather views on poverty and have solution-based conversations focusing on what works, what doesn't and what needs to change. These discussions should help to identify focused solutions within particular communities, based on the experience of those taking part in the discussions. The Poverty Alliance has also co-produced useful guidance for the Poverty and Inequality Commission on involving experts by experience.<sup>36</sup>

Engagement processes should ideally reflect the principles of the National Standards for Community Engagement<sup>37</sup> keeping in mind that there is a significant risk of burden on community groups arising from the number of areas where emphasis on engagement is increasing at the moment, while public sector capacity to do this effectively and sustainably is low.

Your local Third Sector Interface<sup>38</sup> may be able to help you to connect with local representative organisations and ensure the voice of direct experience is reflected in your decision-making processes. As mentioned above, engaging with other local public bodies via Community Planning can help with the sharing of evidence and most importantly feedback from communities.

At national level you can also engage with Community Planning Partnerships across the country, as well as national bodies representing those with direct experience of poverty, marginalisation and disadvantage (which, of course, local areas can also do).

Another source of help – particularly in terms of integrating equality and socio-economic considerations is the Scottish Government Equality Evidence Finder.<sup>39</sup> This is an updated web resource providing equality evidence by subject area and protected characteristic. We have been expanding this to include socio-economic disadvantage as an additional category, also including child poverty considerations. The resource also allows many of Scotland's National Outcome indicators to be broken down by socio-economic disadvantage.

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<sup>35</sup> <https://www.povertyalliance.org/get-involved/get-heard-scotland/get-heard-scotland-toolkit/>

<sup>36</sup> <https://povertyinequality.scot/publication/guidance-for-the-poverty-and-inequality-commission-involving-experts-by-experience/>

<sup>37</sup> <https://www.scdc.org.uk/what/national-standards>

<sup>38</sup> <https://www.gov.scot/publications/third-sector-interfaces-contact-details/>

<sup>39</sup> <http://www.equalityevidence.scot/>

## Stage 3 – Assessment and Improvement

The assessment and improvement stage brings together the evidence and a consideration of potential improvements to the programme, proposal, or decision. Assessments should draw on evidence to explain why strategic decisions reached are expected to reduce inequality gaps.

**It's essential that appropriate officers in the organisation are involved at this stage to ensure that opportunities for developing a better proposal are able to be taken up.** This will be key for meeting the 'due regard' test. Undertaking a Duty assessment should be a team rather than an individual exercise.

### The key questions to discuss at this stage are:

- What are the potential impacts of the programme/proposal/decision and any possible alternatives as we currently understand them (these can be direct or indirect)?
- How could the programme/proposal/decision be improved so it reduces or further reduces inequalities of outcome which result from socio-economic disadvantage?
- Are the views of people who are socio-economically disadvantaged being taken into account in the development process?
- How will this programme/proposal/decision assist you to reduce inequalities of outcome which result from socio-economic disadvantage?
- How will you know if such inequalities of outcome have been reduced i.e. what monitoring and evaluation is required?
- If you are now planning to adjust the programme/proposal/decision, could it be adjusted still further to benefit particular communities of interest or of place who are more at risk of such inequalities of outcome?
- Is there an opportunity to target an intervention towards disadvantaged groups, or take account of barriers in implementation, if evidence shows this will narrow gaps?

The outcomes of the assessment phase, with any options emerging for consideration, should be clearly set out for consideration by the appropriate officer(s) in Stage 4. If proposals have changed considerably, there may also be a case for further consultation with communities.

# Stage 4 – Decision

This decision stage allows appropriate senior officer(s) to consider the assessment process from Stages 2 and 3, agree any changes to the programme, proposal or decision and confirm that the public body has paid due regard to meeting the Duty in this case.

## Key questions to ask at this summary stage are:

- What, in brief, does the evidence base underpinning the programme/proposal/decision say about its potential impacts on inequalities of outcome associated with socio-economic disadvantage?
- What changes, if any, will be made to the programme/proposal/decision as a result of the assessment? Why are these changes being made and what are the expected outcomes?
- If no changes are proposed, please explain why.

A note of this discussion, with answers to the above questions, should be prepared ahead of Stage 5.

# Stage 5 – Publication

Stage 5 enables public bodies covered by the Duty to show that they have paid due regard to meeting it in each case.

**Where a proposal, plan or decision is not considered to be strategic**, this should be set out clearly and accessibly, and signed off by an appropriate officer from the public body in question (there is a suggested template for this at Annex B). This could be made available via one of the following routes:

- As a section in or an annex to a publication setting out the programme/proposal/decision
- As a separate section within an EQIA, focusing on the programme/proposal/decision

**Where a programme/proposal/decision is considered to be strategic**, a record from Stage 4 should be set out clearly and accessibly, and signed off by an appropriate officer from the public body in question. This could be written up in one of the following ways:

- As a section in or an annex to a publication setting out the strategic proposal, plan or decision
- As a Fairer Scotland Duty assessment document, published separately
- As a separate section within an EQIA, focusing on the strategic programme/proposal/decision.

Published assessments provide an important means for stakeholders and others to understand how socio-economic disadvantage is being considered in strategic developments, and should therefore be transparent for a wide readership. Findings, conclusions or the consideration of evidence should be reported with supporting references or an account of methods, and should show how alternatives to the final decision were evaluated.

# Resources

## Case Study 1: NHS Lanarkshire – Monklands Replacement Project<sup>40</sup>

NHS Lanarkshire completed a Fairer Scotland Duty assessment in 2018 of the proposal to replace/refurbish University Hospital Monklands (UHM). Subsequently the Cabinet Secretary for Health and Sport announced that a refurbishment of the existing site should no longer be an option for the project and further engagement was undertaken in regard to another site. The majority of the previous key themes and recommendations were still relevant, but work was undertaken to update the most relevant data to build on the previous recommendations and findings, and to engage with stakeholders to further discuss the impacts identified previously and identify any new impacts that should be considered.

Participants in engagement included patients and public representatives, carers, clinicians (from hospitals, primary care and general practice) and staff representatives. Participants assessed three potential locations (and the current site, although this is now deemed out of scope) against criteria such as journey times, access by road and public transport and the extent to which a location could support hospital centres of excellence and regional services.

NHS Lanarkshire gathered evidence for this assessment through literature searches, locality health and wellbeing profiles, hospital activity data, consultation documents and a Duty Stakeholder workshop. Key impacts were grouped into four interrelated high level themes: multiple deprivation and income inequality; employment and economy; transport and connections; and environment.

In January 2020 a revised Duty assessment was published and in October 2020 a third, updated version was published by the Board, showing how a number of Duty Assessments may need to be undertaken as plans change and adapt over time. The October 2020 version included the following conclusions and range of mitigation measures to combat the negative impacts identified:

‘The proposal to rebuild University Hospital Monklands on another site is anticipated to have positive impacts on the Lanarkshire population including socio-economic outcomes such as employment during the build phase, improved healthcare due to optimal clinical model and potential wider benefits of improved transport infrastructure and community transport model.

<sup>40</sup> [Monklands Replacement Project Fairer Scotland Duty Assessment published | NHS Lanarkshire](#)

# Case Studies

Relocating the hospital from Airdrie may have a negative impact on the local community, particularly staff and patients/carers on low incomes who do not have access to a car as public transport is not currently sufficient. The commute to the new site is also likely to be more expensive for those who live closest to the current UHM.

The sense of belonging and pride in the current Monklands Hospital by the local community should not be underestimated. The community may feel a sense of loss of a long-standing community asset and this may be more acutely felt given the area already has significant multiple deprivation. However, there are other deprived areas, most notably Coatbridge and pockets of North locality, which may benefit from the hospital being relocated to another site.'

A number of measures were recommended for NHS Lanarkshire to consider in order to mitigate negative impacts of the hospital relocation and to maximise opportunities to reduce poverty through the build and hospital relocation process. These included:

- Undertake further consultation and traffic analysis to assess the travel requirements and costs for staff, patients and the community.
- Develop innovative, enhanced and sustainable community and public transport links to the new hospital for the whole Lanarkshire population including consideration of a community transport hub.

- Facilitate lower paid staff to maintain employment at the new hospital, ensuring that they are not disadvantaged by cost of travel and minimise the impact of travelling time.
- Work with community planning partners to improve digital exclusion so that people are not disadvantaged through increased use of technology.
- Maximise procurement possibilities and facilitate training opportunities for those in the most socio-economically disadvantaged areas to allow them to benefit from new construction jobs and jobs in the new hospital.
- Work with North Lanarkshire Council and the local community to regenerate the old Monklands hospital site as part of the overall vision for the town of Airdrie in line with the Plan for North Lanarkshire. The decision by the board to provide community healthcare facilities within the vacated site is welcomed.
- Consider how the new hospital can be designed to support the local community in terms of access to local amenities around the new site.
- Consider provision of subsidised childcare facilities in the new UHM to allow staff to access childcare at their site of work, therefore reducing need for extra public travel time and costs.
- Consider expanding concessionary, discounted and/or free travel for specific groups on public transport.



## Case Study 2: Scottish National Investment Bank Bill

The decision to establish the Scottish National Investment Bank is aligned with the Scottish Government's commitment to inclusive and sustainable economic growth. Missions are set for the Bank to guide the purpose of the bank towards an ethical, socially just and environmentally aware investment strategy. The Bank is required to develop Ethical Investment Standards, and a balanced scorecard approach to measure economic, social, environmental and ethical impact as well as financial performance.

A Fairer Scotland Duty assessment was developed and published in September 2019 to accompany the Scottish National Investment Bank Bill.<sup>41</sup>

Evidence: As well as a literature review, three meetings of a Panel of experts on social lending, inequalities and economics provided focused advice on how national investment can work to reduce the impacts of disadvantage. At the first, addressing the illustrative missions for the Bank, it was proposed that inequality could be reduced through investing in people rather than in places; a reinforced emphasis on inclusivity compared to growth and investment in scaling up social investment initiatives and expanding small business capacity. The second meeting, on reducing barriers and applying conditionality to the Bank's investments, recommended improved information and support to attract medium-sized enterprises; transparent reporting around conditionality; and a focus on supporting both businesses creating jobs in disadvantaged communities and entrepreneurs from disadvantaged backgrounds. The third meeting reviewed the developing missions and considered how best to capture the impacts of the Bank's performance on inequality.

<sup>41</sup> <https://www.gov.scot/publications/scottish-national-investment-bank-fairer-scotland-duty-assessment/>

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Consideration: In light of evidence to date, the published assessment makes recommendations for what the Bank should consider, including: working to proliferate financial products and instruments to address barriers to finance among disadvantaged entrepreneurs in Scotland; introducing loan covenants to support small businesses to embed Fair Work conditions, community benefit clauses to high value investments or requiring borrowing firms to join a business network; and developing metrics to assess the Bank's contribution to reducing socio-economic disadvantage. It also recommended the potential to include representation of the voice of those with direct experience of poverty on the Advisory Group on the Bank which will be established by Scottish Ministers. The assessment also stresses the need to avoid unrealistic expectations and give the Bank 'time and space', noting the Bank must operate on a commercial platform against which measures to address socio-economic disadvantage must be weighed.

The Panel proved effective in bringing expertise on economic solutions to inequality to bear on a broad and substantial policy. By considering the Duty from early in development, the policy team were able to plan and access tailored evidence from the Panel at relevant stages. This in turn allowed policy refinements to be proposed and discussed while there was still scope to incorporate them.

## Case Study 3: East Lothian Council – Local Housing Strategy

East Lothian's Local Housing Strategy (LHS) 2018–2023<sup>42</sup> sets out the strategy, priorities and plans for the delivery of housing and related services across East Lothian from 2018 to 2023.

The LHS is the sole strategic document for housing in East Lothian, bringing together a wide range of housing-related priorities into one place and enabling a co-ordinated response in terms of action. The LHS plays a number of important roles, including setting out the strategic direction to delivering quality housing and related services, to direct investment and meet identified need, outlining East Lothian Council's (the Council's) approach to meeting statutory housing responsibilities i.e. in relation to fuel poverty, house condition and homelessness and demonstrating how housing can contribute to improvements in health and wellbeing and influencing the effective integration of health and social care.

Evidence was gathered both around the impact of, and what works to address inequalities via the establishment of an independent East Lothian Poverty Commission and information on this can be found here <https://www.eastlothian.gov.uk/povertycommission>. The Poverty Commission spoke to local people experiencing poverty, held themed sessions and invited practitioners, local projects and national experts to talk about poverty.

In addition, a health impact assessment of the LHS was carried out by the NHS.

Service user experience was also used as part of the assessment. Twenty focus groups were held to enable the experience of service users in vulnerable groups to influence the LHS. The groups covered:

- Ex-offenders
- Gypsy/Travellers
- Homeless people
- LGBT people
- Older people and their carers
- People with a learning disability and their carers
- People with a mental health condition and their carers
- People with a physical disability and/or visual impairment and their carers
- Young care leavers
- Young vulnerable people

Two large scale events were also held as part of the development process as well as an eight week formal consultation period. Using the evidence outlined above as well as other sources mentioned below, the Council made the following observations regarding the evidence available in relation to poverty and socio-economic disadvantage and outcomes affected:

- There is an acute shortage of affordable housing, particularly social rented housing.

<sup>42</sup> [https://www.eastlothian.gov.uk/downloads/file/27328/east\\_lothian\\_local\\_housing\\_strategy\\_2018-23](https://www.eastlothian.gov.uk/downloads/file/27328/east_lothian_local_housing_strategy_2018-23)

# Case Studies

- Households on low to medium incomes in employment, who would struggle financially to purchase on the open market, are most in need of intermediate tenures, find it difficult to access social housing (given likely time on the housing list) and would find it difficult to access the private rented sector (given high demand and relatively low supply and affordability issues).

Specific observations around people who are vulnerable to falling into poverty included:

- Unemployed people, older people, families with young children and households with a disabled person tend to be more at risk of fuel poverty as these groups typically spend a large proportion of time at home. With an ageing population and a likely growth in the numbers of disabled people it is predicted that there will be an increased group whose health and wellbeing is potentially affected by fuel poverty.
- People on benefits – welfare reform is further exacerbating inequalities, particularly in relation to Universal Credit. Issues also exist for people under the age of 35 in relation to single room rent regulations.
- Pensioners – an ageing population means that pensioners in East Lothian will continue to use increasing levels of service provision which will impact upon housing provision, adaptations services, housing support and telecare.

- Looked after children/those leaving care settings – there remains a lack of services for young people with very complex needs, particularly with regard to accommodation with support. Young people are often required to go to Edinburgh for this, which is costly.

- Those living in the most deprived communities (bottom 20% SIMD areas) – the LHS sets out a profile of the six key towns in East Lothian, which enables a comparison of key indicators of deprivation at a glance. It is clear that while there are small pockets of deprivation in the East of the county, the majority of deprivation is concentrated in the west.

There are also issues with regard to socio-economic disadvantage for rural and semi-rural communities:

- The LHS has a specific section on rural communities in accordance with the LHS guidance. The LHS notes the specific inequalities relating to people living in rural communities, where households are living off the gas grid. Rural housing typically experiences higher rates of fuel poverty, lower levels of energy efficiency, higher rates of empty buildings and higher rates of disrepair. This is compounded by generally lower disposable incomes in rural areas as people pay more for transport, services etc.

# Case Studies

Of urban communities the Council says:

- Evidence suggests that residential dwellings in town centres have a high correlation with high levels of disrepair, poor energy efficiency, below tolerable standard dwellings and fuel poverty.

The evidence was considered as part of an integrated impact assessment<sup>43</sup> of the plan and included service reviews, a review of the ability of groups to access services from individual service related integrated impact assessments, data from two SESplan<sup>44</sup> Housing Need and Demand Assessments, Local Housing Systems Analysis as well as a range of policy documents.

The East Lothian Local Housing Strategy 2018–23<sup>45</sup> includes more detail on how the consultation events were carried out which included options appraisals set out on tables under key headings i.e. homelessness; affordable housing; private sector housing; fuel poverty etc. Each theme had key evidence and key issues and challenges set out and a range of potential options were literally ‘on the table’ for people to choose from and explaining their choice. The Council then took all of these comments on board and used this as the starting point for the rationale as to why one action was chosen over another.

The LHS was agreed, alongside an action plan to mitigate any identified negative impacts, or issues arising for local communities.

Commitments include:

- The LHS will seek to mitigate the impacts of Welfare Reform where appropriate/where possible and investigate alternative housing options i.e. flat sharing and build to rent.
- The LHS ensures that service provision is targeted at areas of deprivation.
- The LHS seeks to mitigate the difficulties associated with rural housing by improving knowledge and understanding of private sector stock in rural areas, targeting energy efficiency advice at rural stock and consideration of the provision of care in rural areas.
- The LHS aims to mitigate against residential dwellings below tolerable standard dwellings in town centres by improving knowledge of private sector stock and ensuring housing is a key component of town centre regeneration/town centre strategies.

Other ways in which the LHS will seek to improve outcomes and reduce inequality for people living in socio-economic disadvantage include:

- The LHS supports projects/ organisations which help young people into positive destinations e.g. Bridges project.

43 [https://www.eastlothian.gov.uk/downloads/file/27536/integrated\\_impact\\_assessment\\_-\\_local\\_housing\\_strategy](https://www.eastlothian.gov.uk/downloads/file/27536/integrated_impact_assessment_-_local_housing_strategy)

44 [Welcome to SESplan](#)

45 [https://www.eastlothian.gov.uk/downloads/file/27645/supporting\\_paper\\_1\\_consultation\\_and\\_engagement](https://www.eastlothian.gov.uk/downloads/file/27645/supporting_paper_1_consultation_and_engagement)

- The LHS includes ambitious housing supply targets for both market and affordable housing, which should increase employment in relation to lower paid jobs i.e. construction and reduce income inequality/boost the local economy.
- The LHS includes actions in relation to employability i.e. for homeless people.
- All contracted services undergo a procurement process which will ensure good working conditions and support the Living Wage.

The strengths of the assessment include the time taken to engage with a wide range of stakeholders, using existing qualitative evidence and the collation and review of different sources of material to inform the evidence base.

The events held informed preparation of the Consultative Draft LHS. All events considered evidence and then focused on appraising the options which in turn informed actions in the LHS. The events included:

- **Housing Forums** – 3 large scale full day Housing Forum events were held, to consider key housing issues and challenges across the county and drafting priority outcomes and actions and a vision for housing in the LHS. An interactive options appraisal was carried out, with attendees encouraged to agree potential actions for the draft LHS, on the basis of identified issues and challenges.

- **Community Planning** – Engagement with Community Planning is emphasised in Guidance, with a requirement for Community Planning Partners to agree to both the strategic direction of the LHS and their role in the delivery of key outcomes. A Community Planning event was held to raise awareness and consult with key stakeholders in relation to the Draft LHS.

- **Consultation on SESplan Housing Need and Demand Assessment 2**

- In 2014 a wide Housing Market Partnership was established comprising of around 300 organisations and groups across South East Scotland. A series of five large scale consultation events were held, to consult with the Partnership on housing need and demand, in addition to virtual events/surveys.

Having consulted widely, the Council and its partners were confident that evidence regarding key issues and challenges was considered, all options were fully explored, and actions were agreed and decided on following full options appraisal.

The assessment clearly sets out how socio-economic disadvantage has been considered and what that means for the LHS, informing actions to be undertaken to address concerns and mitigate any negative impacts.



## Case Study 4: The Deposit and Return Scheme for Scotland<sup>46</sup>

The Deposit Return Scheme (DRS) for single-use drinks containers is intended to increase the quantity and quality of materials collected for recycling, to encourage wider behaviour change around materials and to deliver maximum economic and societal benefits for Scotland. It forms part of the Scottish Government's wider ambition to develop a more circular economy that keeps products and materials circulating in a high value state of use for as long as possible.

Framing within an EQIA process indicated potential for positive or negative impacts of a DRS on people affected by low wealth and material deprivation, depending on the final scheme design and any mitigation.<sup>47</sup> There was potential for the scheme to create accessible job opportunities. On the other hand, published literature and national survey data highlighted that people impacted by socio-economic disadvantage are likely to pay more for essential goods and services (energy, food) than the rest of the population and are more susceptible to changes in food and drink prices; and that low-income households tended to have lower participation in recycling. Modelling work suggested that initial outlay for low-income households could be low but that this would require high public participation, maximising the number of deposits redeemed.

Observation of different DRS models implemented in other countries including, Norway, Estonia, Sweden, Lithuania, Denmark and Finland suggested that a return-to-retail model would support higher capture rates better than a return-to-depot model with no retail involvement, and could create jobs that could be filled by long-term unemployed people. Consultation indicated strong public support for a return-to-retail model supplemented by dedicated return points, making it possible to return packaging to any place of sale.

Consideration of this evidence suggested that to ensure high uptake among disadvantaged groups and avoid financial impacts on them:

- comprehensive multi-channelled and inclusively designed communication and engagement programmes and materials were vital
- return points' location, accessibility and convenience of use should be prioritised
- online retailers should be required to operate a take-back service to help those relying on online shopping due to limited travel options
- attraction of inward investment could create additional job opportunities

<sup>46</sup> [Managing waste: Deposit return scheme - gov.scot \(www.gov.scot\)](http://www.gov.scot)

<sup>47</sup> [DRS Interim EQIA .pdf \(consult.gov.scot\)](http://consult.gov.scot)



# Case Studies

The preferred scheme was a return to any place of purchase model that would require online retailers to operate a take-back service and allow non-retail spaces to act in this capacity (benefiting those with limited travel options). Encompassing both manual and automated take-back arrangements helped smaller retailers serving deprived areas to participate. It was decided that communication and engagement activity that took digital exclusion into account should ensure that disadvantaged groups understood clearly what the DRS is, how it works, what they can return and how they can redeem their deposit.

Strengths of the Duty Assessment<sup>48</sup> include:

- informing the selection of a preferred scheme by considering evidence from other countries on the implications of alternative DRS options for those experiencing poverty
- use of modelling to estimate impacts of the proposed decision on low-income households
- consideration of both socio-economic disadvantage (through the creation of jobs accessible by those unemployed for a long period) and inequality of outcomes (e.g. digital exclusion)

A consultation was used to gather views on, for instance, the impacts of different policy options and what might be an acceptable level of deposit. Although there were over 2,000 responses from individuals, it is not clear respondents had lived experience of poverty. Additional dedicated engagement to understand such individuals' views would help ensure the scheme is implemented in the fairest possible way.<sup>49</sup>

48 A Deposit Return Scheme for Scotland – Equality Impact Assessment – gov.scot ([www.gov.scot](http://www.gov.scot))

49 <https://www.gov.scot/publications/deposit-return-scheme-scotland-analysis-responses/>

## Case Study 5: NHS24 Premises Relocation

As a special health board, NHS 24 has offices across Scotland, its main centres being based in the North East of Scotland, the East of Scotland and the West of Scotland.

In 2019, NHS 24 received a request to move out of one of the premises that it occupied in the West of Scotland. This was required as another special health board was expanding its range of elective surgeries and needed additional space. In addition to the request to move, the impact of the COVID-19 pandemic in 2020, meant that NHS 24 also needed to consider the need for social distancing and infection control measures. The Redesign of Urgent Care<sup>50</sup> had also placed additional responsibilities on the 111 service provided by NHS 24 to ensure people get the right care pathway and this resulted in an expansion to the NHS 24 workforce.

An Estates Programme Board was established, which consisted of cross functional representation from across the organisation.

A workshop was convened with groups identifying what was most important for each function in new premises, and what each area needed from the business case. This was a useful process which meant that the Programme Board was able to build the Fairer Scotland Duty (the Duty) into how decisions would be taken.

As of 2021, 79% of NHS 24 staff are women,<sup>51</sup> and a recent recruitment drive to address the pandemic and recommendations from the Redesign of Urgent Care has led to an increase in younger people coming to work for them. These demographics were factored into the process.

<sup>50</sup> <https://www.gov.scot/policies/healthcare-standards/unscheduled-care/>

<sup>51</sup> [nhs-24-equality-mainstreaming-report-2021-workforce-data-update.pdf](https://www.nhs.uk/24/equality-mainstreaming-report-2021-workforce-data-update.pdf) (nhs24.scot)

# Case Studies

It was important to include an Equality and Diversity Impact Assessment in the business case,<sup>52</sup> and the Duty was included in this. The process involved having discussions in the workshop and prioritising what key areas of inclusion should be incorporated into the Business Case. There was an opportunity to introduce into conversations the consideration of the socio-economic impact of the move. NHS 24 was able to show where, as a public service, they could have an impact on the socio-economic situation of local communities. They explored what they could do to enhance the lives of people within the West of Scotland and considered how through choosing the right location, the Board and the number of staff working for NHS 24 could have a bigger impact on people who are experiencing disadvantage identified through the Scottish Index of Multiple Deprivation (SIMD).

The Programme Board agreed to build in the Duty to the business case as one of the non-financial benefits criteria and applied a weighting.

From a socio-economic and equality perspective they asked what the employment opportunities would be in the areas identified to potentially move to and particularly what would be the employment opportunities for diverse communities. NHS 24 had previously identified an equality outcome to ensure the composition of staff represents the composition of the communities it serves so it was reasonable to include this in considerations. In addition, 12% of NHS 24 staff identify as being disabled so any move needed to take account of their needs.

Consideration was given to how business could be supported within a local community, with staff travelling to and from the site, buying from local shops at break times, using bus and train services (which could help with sustainability of these services) and local garages could be supported.

In addition to financial considerations, a non-financial benefits criteria was established.

A Duty weighting was included within the non-financial benefits alongside other factors such as, 24/7 operational capability, and aspects ensuring safe, effective and person-centred care. This was the first time socio-economic impact and equality were given a weighting that would influence the business case.

<sup>52</sup> [https://www.nhs24.scot/data/uploads/PDF/NHS\\_board/papers/2019/december/20191212-item-10.2-estates-business-case-update-v5.pdf](https://www.nhs24.scot/data/uploads/PDF/NHS_board/papers/2019/december/20191212-item-10.2-estates-business-case-update-v5.pdf)

# Case Studies

The pandemic, physical distancing and additional services being added to the 111 service meant a need for additional office premises. NHS 24 chose premises in Hillington which had a similar score in the SIMD as their previous premises, which afforded opportunities within the local community. Staff have reported that they feel comfortable there and that the building is of good quality.

Through the development of the business case, awareness was raised within the Executive Management Team (EMT) and Board with all Estate Programme Board reports now referencing the Duty. Previously awareness raising sessions had been provided on health inequality to the EMT and Board including on the Fairer Scotland Duty, but being able to apply this on a live project and being involved in the process was really successful.

The Duty was built fully into the business case and was ultimately signed off by two Cabinet Secretaries. NHS 24 are having to continually assess all of its premises for suitability and to address the need for increased capacity. The socio-economic impact is now embedded as part of the non-financial criteria within all Estate Programme Business Cases.

In addition NHS 24 is seeing greater awareness among members of the EMT and the Board on how the Duty can impact on business cases. They are now confident that all discussions being had are about what is important for delivery, staff and how to make sure they run effectively as an organisation, but also how it can influence impact within local communities and improve opportunities locally.

The work is now extending to consider further areas in Scotland where NHS 24 have been carrying work out across the Estates Programme Board looking at suitability in terms of cities, staffing, availability of staff and the socio-economic impact is built in.

A Link to the Board paper is [https://www.nhs24.scot/data/uploads/PDF/NHS\\_board/papers/2019/december/20191212-item-10.2-estates-business-case-update-v5.pdf](https://www.nhs24.scot/data/uploads/PDF/NHS_board/papers/2019/december/20191212-item-10.2-estates-business-case-update-v5.pdf)

# Data sources

## 1. Evidence on socio-economic disadvantage:

Theme	Data Source	Weblink
<b>Low Income</b>	Scottish Government poverty and income inequality statistics are published annually. A wealth of data is available, including on child, working age and pensioner poverty. The most recent publication was March 2021.	<a href="https://www.gov.scot/collections/poverty-and-income-inequality-statistics/">https://www.gov.scot/collections/poverty-and-income-inequality-statistics/</a>
	The Scottish Government published national persistent poverty statistics for the first time in March 2017	<a href="https://www.gov.scot/publications/persistent-poverty-scotland-2010-2018/">https://www.gov.scot/publications/persistent-poverty-scotland-2010-2018/</a>
	Joseph Rowntree Foundation provide useful analysis on poverty, including recent work by The New Policy Institute on disability and poverty	<a href="https://www.jrf.org.uk/reports">https://www.jrf.org.uk/reports</a> <a href="https://www.jrf.org.uk/data">https://www.jrf.org.uk/data</a> <a href="https://www.jrf.org.uk/income-and-benefits">https://www.jrf.org.uk/income-and-benefits</a> <a href="https://www.npi.org.uk/publications/income-and-poverty/disability-and-poverty/">https://www.npi.org.uk/publications/income-and-poverty/disability-and-poverty/</a>
	DWP's 'Stat-Xplore' provides a guided way to explore DWP benefit statistics, currently holding data relating to 16 different benefits/programmes (login required)	<a href="https://stat-xplore.dwp.gov.uk/webapi/jsf/login.xhtml">https://stat-xplore.dwp.gov.uk/webapi/jsf/login.xhtml</a>
<b>Low wealth</b>	The Wealth and Assets Survey provides data on wealth inequality in Scotland. The last publication was January 2020, covering the period 2016-2018.	<a href="https://data.gov.scot/wealth//2020report.html">https://data.gov.scot/wealth//2020report.html</a>
<b>Material Deprivation</b>	The Scottish Government publishes national combined low income and material deprivation as part of its annual poverty statistics report. The most recent publication was November 2017.	<a href="http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty">http://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/IncomePoverty</a>

# Data sources

Theme	Data Source	Weblink
<b>Area Deprivation/ Communities of place</b>	The Scottish Index of Multiple Deprivation (SIMD) is the official tool for finding the most deprived areas in Scotland	<a href="https://www.gov.scot/collections/scottish-index-of-multiple-deprivation-2020/">https://www.gov.scot/collections/scottish-index-of-multiple-deprivation-2020/</a>
	The further work done on minimum income standard for remote, rural Scotland may also be useful.	<a href="http://www.hie.co.uk/regional-information/economic-reports-and-research/archive/a-minimum-income-standard-for-remote-rural-scotland---a-policy-update.html">http://www.hie.co.uk/regional-information/economic-reports-and-research/archive/a-minimum-income-standard-for-remote-rural-scotland---a-policy-update.html</a>
	Review of Equality Evidence in Rural Scotland	<a href="http://www.gov.scot/Resource/0046/00469898.pdf">http://www.gov.scot/Resource/0046/00469898.pdf</a>
<b>Socio-economic background</b>	The Social Mobility Commission gathers data and provides briefings on social mobility across the UK	<a href="https://socialmetricscommission.org.uk/">https://socialmetricscommission.org.uk/</a> <a href="https://www.gov.uk/government/organisations/social-mobility-commission">https://www.gov.uk/government/organisations/social-mobility-commission</a>

# Data sources

## 2. Evidence on inequalities of outcome:

Theme	Data Source	Weblink
<b>Communities of interest</b>	The Scottish Government Equality Evidence Finder is an updated web resource providing equality evidence on key outcomes by subject area and protected characteristic or socio-economic disadvantage. The site includes the National Performance Framework Data Explorer, an interactive tool which provides breakdowns of National Indicators by socio-economic disadvantage where data are available to support this.	<a href="https://scotland.shinyapps.io/sg-equality-evidence-finder/">https://scotland.shinyapps.io/sg-equality-evidence-finder/</a>
<b>General</b>	Although a health organisation, the Scottish Public Health Observatory also collates evidence on many outcomes or life circumstances that are important determinants of health.	<a href="https://www.scotpho.org.uk/life-circumstances/">https://www.scotpho.org.uk/life-circumstances/</a>
	The Poverty and Inequality Commission provide key facts and briefings for Scotland and commission research.	<a href="https://povertyinequality.scot/poverty-scotland/">https://povertyinequality.scot/poverty-scotland/</a>
	The Improvement Service Community Planning Outcomes Profile is a tool to help assess outcomes including early years, older people, safer/stronger communities, health and wellbeing, and engagement for local communities.	<a href="http://www.improvementservice.org.uk/community-planning-outcomes-profile.html">http://www.improvementservice.org.uk/community-planning-outcomes-profile.html</a>
<b>Living standards</b>	Scottish Household Survey gathers a range of household information, including data for several of our National Indicators, which can be disaggregated by income or SIMD.	<a href="https://www.gov.scot/collections/scottish-household-survey-publications/">https://www.gov.scot/collections/scottish-household-survey-publications/</a>



# Data sources

Theme	Data Source	Weblink
	The Institute for Fiscal Studies is a UK think-tank publishing reports on how economic and social policies affect individuals, families. A key (pre-COVID-19) report estimates what has happened since 2015-16 to household incomes and poverty rates and looks at how they might evolve up to 2021-22.	<a href="https://www.ifs.org.uk/publications">https://www.ifs.org.uk/publications</a> <a href="https://www.ifs.org.uk/uploads/publications/comms/R136.pdf">https://www.ifs.org.uk/uploads/publications/comms/R136.pdf</a>
	Resolution Foundation is an independent UK think-tank focused on improving the living standards of those on low-to-middle incomes.	<a href="https://www.resolutionfoundation.org/publications/">https://www.resolutionfoundation.org/publications/</a>
<b>Fuel Poverty</b>	The Scottish Government commissioned an evidence review and qualitative research on the experience of fuel poverty.	<a href="https://www.gov.scot/publications/evidence-review-lived-experience-fuel-poverty-scotland/">https://www.gov.scot/publications/evidence-review-lived-experience-fuel-poverty-scotland/</a> <a href="https://www.gov.scot/publications/research-lived-experience-fuel-poverty-scotland/">https://www.gov.scot/publications/research-lived-experience-fuel-poverty-scotland/</a>
<b>Child Poverty</b>	Scottish Government publish a wide range of statistics on child poverty.	<a href="https://www.gov.scot/collections/child-poverty-statistics/">https://www.gov.scot/collections/child-poverty-statistics/</a>
	The End Child Poverty Coalition has published relative child poverty estimates for local areas in Scotland, down to ward level.	<a href="http://www.endchildpoverty.org.uk/child-poverty-in-your-area-201415-201819/">http://www.endchildpoverty.org.uk/child-poverty-in-your-area-201415-201819/</a>
	Child Poverty Action Group publish useful facts and figures on child poverty in Scotland.	<a href="http://www.cpag.org.uk/scotland/child-poverty-facts-and-figures">http://www.cpag.org.uk/scotland/child-poverty-facts-and-figures</a>
	The Scottish Government evidence pack highlights key issues for the six priority family types identified as being at highest risk of child poverty.	<a href="https://www.gov.scot/publications/tackling-child-poverty-priority-families-overview/">https://www.gov.scot/publications/tackling-child-poverty-priority-families-overview/</a>

# Data sources

Theme	Data Source	Weblink
<b>Health &amp; Wellbeing</b>	The Scottish Public Health Observatory provide an online tool to visualise key health inequalities at different geographic levels.	<a href="https://scotland.shinyapps.io/ScotPHO_profiles_tool/">https://scotland.shinyapps.io/ScotPHO_profiles_tool/</a>
	The Information Services Division (ISD) is a division of National Services Scotland, part of NHS Scotland, that provides health information, health intelligence and statistical services.	<a href="https://www.isdscotland.org/">https://www.isdscotland.org/</a>
	Public Health Scotland provide extensive information on health inequalities.	<a href="https://www.publichealthscotland.scot/">https://www.publichealthscotland.scot/</a>
	National Records Scotland provide annual figures on life expectancy and healthy life expectancy with breakdowns by SIMD.	<a href="https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/life-expectancy">https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/life-expectancy</a>
	Voluntary Health Scotland produce publications including Living in the Gap to support voluntary organisations to understand the causes and impact of health inequalities.	<a href="https://vhscotland.org.uk/health-topics/health-inequalities/">https://vhscotland.org.uk/health-topics/health-inequalities/</a>
<b>Labour Market</b>	Scottish Government produces statistical publications relating to Scotland's labour market.	<a href="https://www.gov.scot/collections/labour-market-statistics/">https://www.gov.scot/collections/labour-market-statistics/</a>
	Nomis is a service provided by the Office for National Statistics to give access to the most detailed and up-to-date UK labour market statistics.	<a href="https://www.nomisweb.co.uk/">https://www.nomisweb.co.uk/</a>
	Skills Development Scotland publish a range of national and regional statistics and reports	<a href="https://www.skillsdevelopmentscotland.co.uk/publications-statistics/publications/?page=1&amp;order=date-desc">https://www.skillsdevelopmentscotland.co.uk/publications-statistics/publications/?page=1&amp;order=date-desc</a>

# Data sources

Theme	Data Source	Weblink
	ASHE (Annual Survey of Hours and Earnings)	<a href="https://www.ons.gov.uk/surveys/informationforbusinesses/businesssurveys/annualsurveyofhoursandearningsashe">https://www.ons.gov.uk/surveys/informationforbusinesses/businesssurveys/annualsurveyofhoursandearningsashe</a>
<b>Education</b>	Scottish Government publish a wide range of statistics on education outcomes including free school meal registrations.	<a href="https://www.gov.scot/collections/school-education-statistics/">https://www.gov.scot/collections/school-education-statistics/</a>
<b>Crime</b>	Scottish Crime and Justice Survey (SCJS) surveys people about their experiences and perceptions of crime in Scotland, allowing examination of the varying risk and characteristics of crime for different groups of adults in the population.	<a href="https://www.gov.scot/collections/scottish-crime-and-justice-survey/">https://www.gov.scot/collections/scottish-crime-and-justice-survey/</a>
<b>Equality and Diversity</b>	The Equality and Human Rights Commission is the UK's national equality body, and publishes extensively on issues of inequality, including that associated with socio-economic disadvantage. The Is Scotland Fairer? series is particularly relevant.	<a href="https://www.equalityhumanrights.com/en/our-work/publications-library">https://www.equalityhumanrights.com/en/our-work/publications-library</a>
<b>Regional Issues</b>	The Rural Lives report explores financial wellbeing and vulnerability in three rural areas: Harris, East Perthshire, Northumberland.	<a href="https://www.rurallives.co.uk/rural-lives-final-report">https://www.rurallives.co.uk/rural-lives-final-report</a>
	Scotland's Centre for Regional Inclusive Growth gives guidance on City Region Deals, Equality Outcomes, impact assessment and investment decisions.	<a href="https://www.inclusivegrowth.scot/resources/business-and-inclusive-growth/2020/05/equalities-in-business-cases/">https://www.inclusivegrowth.scot/resources/business-and-inclusive-growth/2020/05/equalities-in-business-cases/</a> <a href="https://www.inclusivegrowth.scot/resources/equalities-and-investment/2020/05/equality-outcomes-impact-assessment-and-investment-decisions/">https://www.inclusivegrowth.scot/resources/equalities-and-investment/2020/05/equality-outcomes-impact-assessment-and-investment-decisions/</a>

# Data sources

## 3. Evidence on what is effective in targeting poverty and inequality:

Theme	Data Source	Weblink
General	<p>What Works Scotland was an initiative that worked from 2014 to 2020 to improve the way local areas in Scotland use evidence to make decisions about public service development and reform.</p> <p>A network of What Works Centres beyond Scotland also offer a valuable resource of evidence.</p>	<p><a href="http://whatworksscotland.ac.uk/publications/">http://whatworksscotland.ac.uk/publications/</a></p> <p><a href="https://www.gov.uk/guidance/what-works-network">https://www.gov.uk/guidance/what-works-network</a></p>
	<p>Joseph Rowntree Foundation have produced various resources on what works to tackle poverty and how decisions may have a social impact.</p>	<p><a href="https://www.jrf.org.uk/report/routes-out-poverty">https://www.jrf.org.uk/report/routes-out-poverty</a></p> <p><a href="https://www.jrf.org.uk/report/inclusive-growth-monitor">https://www.jrf.org.uk/report/inclusive-growth-monitor</a></p> <p><a href="https://www.mui.manchester.ac.uk/igau/research/jrf-findings/">https://www.mui.manchester.ac.uk/igau/research/jrf-findings/</a></p> <p><a href="https://www.jrf.org.uk/report/cost-cuts-social-impact-tool-local-authorities">https://www.jrf.org.uk/report/cost-cuts-social-impact-tool-local-authorities</a></p>
Health	<p>Public Health Scotland's Triple-I is a useful tool for considering targeting strategy and options in health interventions.</p>	<p><a href="http://www.healthscotland.scot/reducing-health-inequalities/take-cost-effective-action/informing-interventions-to-reduce-health-inequalities-triple-i/triple-i-tools">http://www.healthscotland.scot/reducing-health-inequalities/take-cost-effective-action/informing-interventions-to-reduce-health-inequalities-triple-i/triple-i-tools</a></p>

# Data sources

## 4. Resources on engagement to evidence the views of those with lived experience:

Theme	Data Source	Weblink
Engaging those with lived experience	What Works Scotland	<a href="http://whatworksscotland.ac.uk/events/hard-to-reach-or-easy-to-ignore-a-review-of-evidence-about-equality-in-community-engagement/">http://whatworksscotland.ac.uk/events/hard-to-reach-or-easy-to-ignore-a-review-of-evidence-about-equality-in-community-engagement/</a>
	Scottish Communities Development Centre	<a href="https://www.scdc.org.uk/what/national-standards">https://www.scdc.org.uk/what/national-standards</a>
	Healthcare Improvement Scotland – Community Engagement (which was developed in response to the COVID-19 pandemic)	<a href="https://www.hisengage.scot/engaging-differently">https://www.hisengage.scot/engaging-differently</a>
	HIS and the Care Inspectorate are working with stakeholders to develop a Quality Framework for Community Engagement.	<a href="https://www.hisengage.scot/equipping-professionals/quality-framework/">https://www.hisengage.scot/equipping-professionals/quality-framework/</a>
	Third sector interfaces	<a href="https://www.gov.scot/publications/third-sector-interfaces-contact-details/">https://www.gov.scot/publications/third-sector-interfaces-contact-details/</a>
	Poverty Alliance’s Get Heard Toolkit	<a href="https://www.povertyalliance.org/get-involved/get-heard-scotland/get-heard-scotland-toolkit/">https://www.povertyalliance.org/get-involved/get-heard-scotland/get-heard-scotland-toolkit/</a>
	Guidance co-produced by the Poverty and Inequality Commission and Poverty Alliance on involving experts by experience in decision-making	<a href="https://povertyinequality.scot/publication/guidance-for-the-poverty-and-inequality-commission-involving-experts-by-experience/">https://povertyinequality.scot/publication/guidance-for-the-poverty-and-inequality-commission-involving-experts-by-experience/</a>
Community engagement and participation guidance for NHS Boards, Integration Joint Boards and Local Authorities that are planning and commissioning care services in Scotland	<a href="https://www.gov.scot/publications/planning-people/">https://www.gov.scot/publications/planning-people/</a>	

The Fairer Scotland Duty Knowledge Hub features a range of resources which will help with evidence gathering and includes examples of practice. To access the Knowledge Hub please register first, then search for the Fairer Scotland Duty KHub and submit a joining request.

# Glossary of terms

**Appropriate Officer** – Each Duty assessment process should be signed off by an appropriate officer. ‘Appropriate’ refers to a level of authority or seniority sufficient to demonstrate that due regard has been given in each case. While this will vary by public body, in the Scottish Government’s case, an appropriate officer would be a deputy director or a director.

**Child Poverty (Scotland) Act 2017** – Legislation setting ambitious targets for eradicating child poverty in Scotland by 2030.

**Communities of Place** – People who are bound together because of where they reside, work, visit or otherwise spend a continuous portion of their time. For example, people in particular rural, remote and island areas.

**Communities of Interest** – Groups of people who share an experience, for example people who have experienced homelessness or care; or those who share one or more of the protected characteristics listed in the Equality Act 2010; or groups who may share an identity, for example lone parents.

**Due Regard** – To show that a public body has paid due regard, it should demonstrate active consideration, ideally including participation with communities affected. How much regard is due will depend on the relevance of the decision to the scale of socio-economic disadvantage and inequalities of outcome in relation to each strategic issue – proportionality is key, in other words. Due regard does not mean there is an obligation to achieve a result. Results are, nevertheless, important.

**Equality Act 2010** – UK legislation which consolidated and set out new equality duties. The ‘socio-economic Duty’ (which has been renamed the Fairer Scotland Duty in Scotland) formed Part 1 of this Act of Parliament.

**Fairer Scotland Duty (the Duty)** – Part 1 of the Equality Act 2010 set out a new Duty regarding socio-economic inequalities. The Duty came into force in Scotland on 1 April 2018 (but not in other parts of the UK at that time). It requires public bodies to pay due regard to narrowing the inequalities of outcome, caused by socio-economic disadvantage, when making strategic decisions. The Welsh Government commenced the socio-economic duty for Wales on 31 March 2021.

**Inequalities of Outcome** – Any measurable differences in outcomes, for example, in relation to health and life expectancy or educational attainment. Socio-economically disadvantaged households have a higher risk of experiencing negative outcomes.

**Intersectionality** – Intersectionality means recognising that people’s identities and social positions are shaped by multiple factors including age, sex, disability, race, religion or belief, sexual orientation and socio-economic background.

**Key Requirement** – This is the central expectation of the Duty as set out in this guidance. To meet the Duty, public bodies must actively consider, at an appropriate level, what more they can do to reduce the inequalities of outcome, caused by socio-economic disadvantage, in any strategic decision-making or policy development context. To help demonstrate that the Duty has been met, we recommend public bodies should publish a short written assessment, showing how they’ve done this.

# Glossary of terms

**Low Income** – Low income is a key driver of a range of negative outcomes and can be defined in a range of ways. Relative poverty (after housing costs) is a useful headline measure, looking at the number of individuals living in households with incomes below 60% of UK median income. But there are a range of other measures too – see the Resources section of this guide for more information.

**Low Wealth** – Having access to wealth (including financial products, equity from housing, and a decent pension) provides some protection from socio-economic disadvantage, particularly when the wealth comes in the form of accessible savings.

**Material Deprivation** – This refers to households being unable to access basic goods and services.

**Public Sector Equality Duty** – This Duty requires public bodies to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010; advance equality of opportunity between persons who share a relevant protected characteristic (as defined by the 2010 Act) and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**Socio-Economic Background** – The structural disadvantage that can arise from parents' education, employment and income – social class, in other words.

**Socio-Economic Disadvantage** – In broad terms, socio-economic disadvantage means living on below average incomes, with little accumulated wealth, leading to greater material deprivation, restricting the ability to access basic goods and services. Socio-economic disadvantage can be experienced in both places and communities of interest, leading to further negative outcomes such as social exclusion.

**Strategic Decisions** – These are the key, high-level decisions that the public sector takes, such as deciding priorities and setting objectives. Many of these decisions may be made in the context of public service reform and improving outcomes for people and communities. In general, they will be decisions that affect how the public body fulfils its intended purpose, often over a significant period of time. These would normally include strategy documents, decisions about setting priorities, allocating resources, and commissioning services.



# Annexes

# Annex A – Evaluation Tool

## Introduction

The Fairer Scotland Duty evaluation tool will support relevant public bodies in progressing the implementation of the Duty, to ensure they are actively considering (‘paying due regard’ to) how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions.

Relevant Public Bodies can use the evaluation tool to:

- Assure management that the quality of Duty assessments is robust and evidence-based.
- Benchmark how the Duty is being met across the organisation, understand areas of strength and areas for improvement.
- Understand how to take forward improvements.
- Encourage reflection and the recording of progress.
- Action and record output from this process as evidence for any monitoring by the Equality and Human Rights Commission (EHRC).
- Provide a way of comparing your organisation’s progress with other public sector bodies in Scotland and identify which organisations you can learn from and those you can provide lessons to.

This tool is designed to be used by an **appropriate officer** to assess how effectively the Duty has been applied in individual assessments. This may be an organisational lead for the Duty or any officer carrying out a Duty assessment for their service area.

This tool is not mandatory, but provided to assist bodies in considering how well they are meeting the Duty. It can be adapted to suit your organisation’s needs.

## Key Stages

The key stages, as set out earlier in this document, demonstrate giving ‘due regard’ in influencing how the organisation considers socio-economic disadvantage and inequality of outcome as part of strategic decision-making.

1. Planning
2. Evidence
3. Assessment and Improvement
4. Decision
5. Publication

# Annex A – Evaluation Tool

Section 1 – Planning	Fully Met	Partially Met with Some Areas for Improvement	Not Met	Not Applicable
1. Due regard was paid during the development of the programme/proposal/decision, with a plan developed early to support the Duty assessment.				
2. The aims and expected outcomes of the programme/proposal/decision were clearly articulated and confirmed at the planning stage.				
3. Relevant stakeholders were involved in the planning stage.				
4. The appropriate officers across the organisation were made aware that the assessment was underway and that it could have affected the final decision being made.				
Based on your responses to the statements above, please provide evidence/positive examples.				
Based on the statements above, where could future Duty assessments be strengthened?				

# Annex A – Evaluation Tool

Section 2 – Evidence	Fully Met	Partially Met with Some Areas for Improvement	Not Met	Not Applicable
1. Evidence was reviewed to identify the programme/proposal/decision’s actual or likely impacts on socio-economic disadvantage and key inequalities of outcome.				
2. Any existing evidence on the effects and effectiveness of the programme/proposal/decision being developed was collated.				
3. EQIA planning work for this issue was reviewed to identify if sex, race, disability or other protected characteristics intersected with socio-economic characteristics and had to be factored into decision-making.				
4. Where possible, new evidence was collected for areas that were lacking in evidence to support decision-making.				
5. Communities of interest (including those with direct experience of poverty and disadvantage) were engaged with in this process.				
Based on your responses to the statements above, please provide evidence/positive examples.				
Based on the statements above, where could future Duty assessments be strengthened?				

# Annex A – Evaluation Tool

Section 3 – Assessment and Improvement	Fully Met	Partially Met with Some Areas for Improvement	Not Met	Not Applicable
1. The assessment took place early enough for any impacts identified to inform the strategic decision being made and appropriate action taken.				
2. The programme/proposal/decision was assessed to identify how it could be improved so it reduced or further reduced inequalities of outcome, with a particular focus on socio-economic disadvantage.				
3. Senior-decision makers were involved in the assessment.				
4. Any adjustments to the programme/proposal/decision took account of how these could further benefit particular communities of interest or of place, who are more at risk of inequalities of outcome associated with socio-economic disadvantage.				
Based on your responses to the statements above, please provide evidence/positive examples.				
Based on the statements above, where could future Duty assessments be strengthened?				

# Annex A – Evaluation Tool

Section 4 – Decision	Fully Met	Partially Met with Some Areas for Improvement	Not Met	Not Applicable
1. As a result of a Duty assessment, any changes required were made to the programme/proposal/decision.				
2. There is a collective understanding, including at a senior level, of why any changes, if required, were made and what the expected outcomes are.				
3. If no changes were required to the proposal after a Duty assessment, this was clearly understood by all involved in the process.				
Based on your responses to the statements above, please provide evidence/positive examples.				
Based on the statements above, where could future Duty assessments be strengthened?				

# Annex A – Evaluation Tool

Section 5 – Publication	Fully Met	Partially Met with Some Areas for Improvement	Not Met	Not Applicable
1. A record of the Duty assessment has been produced, that clearly and accessibly explains the impact of the assessment upon the process.				
2. The Duty assessment has been written up as either an annex to a publication setting out the proposal, or as a Duty assessment document published separately or as a separate section within an EQIA.				
3. The Duty assessment has been signed off by an appropriate officer and published where it can be easily accessed.				
Based on your responses to the statements above, please provide evidence/positive examples.				
Based on the statements above, where could future Duty assessments be strengthened?				



# Annex B – Sample Assessment Not Required Declaration Template

This is a suggested template that could be used to declare that a Duty assessment is not required for a decision. It can be adapted to suit your organisation’s needs.

<b>Title of the programme/proposal/decision</b>	
<b>Programme/proposal/decision implementation date</b>	
<b>Directorate/Division/Service/Team</b>	
<b>Responsible officer for taking decision</b>	
<b>Who else was involved in taking the decision?</b>	
<b>Was the decision taken by a partnership?</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Rationale for decision</b>	[Delete after completing: Please record why an assessment under the Fairer Scotland Duty is not required and what your justification is for making that decision. This must include confirmation that the programme/proposal/decision concerned does not constitute a strategic decision and/or has no relevance re socio-economic inequalities – see, in particular the examples held in the Defining Inequalities of Outcome section of the guidance.]
<p><b>Declaration:</b></p> <p>I confirm that the decision not to carry out a Fairer Scotland Duty assessment has been authorised by:</p> <p>Name and Job Title:</p> <p>Date Authorisation given:</p>	

An example of a statement that a Fairer Scotland Duty assessment was not required is that published for The University of St. Andrews (Degrees in Medicine and Dentistry) Bill: <https://www.gov.scot/publications/university-st-andrews-degrees-medicine-dentistry-bill-fsd-assessment/>.

# Annex C – Training and resources

There are a range of resources available to assist with raising awareness and knowledge of the Fairer Scotland Duty.<sup>53</sup>

These include:

- Recorded training sessions and webinars which can be found on the Fairer Scotland Duty Knowledge Hub<sup>54</sup> (KHub)
- Powerpoint slides<sup>55</sup> on the KHub to help you to deliver your own training on the Fairer Scotland Duty.
- Videos are also available on the Improvement Service You Tube Channel<sup>56</sup> in the Fairer Scotland Duty playlist, including:
  - How does the Fairer Scotland Duty link with other legislation?
  - Integrated Impact Assessment, Child Poverty and Fairer Scotland Duty
  - Fairer Scotland Duty, Local Child Poverty Action Reports and Community Planning
  - Fairer Scotland Duty Refresher Training
- Notes and recordings<sup>57</sup> of the Fairer Scotland Duty Leads Network on the KHub.

The KHub has a wide range of information and tools in its library, including examples of impact assessment, briefing notes and sources of evidence.

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<sup>53</sup> To access the resources on the Knowledge Hub please register first, then search for the Fairer Scotland Duty KHub and submit a joining request.

<sup>54</sup> <https://www.khub.net/group/fairer-scotland-duty/group-library>

<sup>55</sup> [Training materials - Library - Fairer Scotland Duty - Knowledge Hub \(khub.net\)](#)

<sup>56</sup> <https://www.youtube.com/channel/UCj0N2FYL2Ljb4oS49pyyqHQ/playlists>

<sup>57</sup> [Virtual FSD Leads Network - Library - Fairer Scotland Duty - Knowledge Hub \(khub.net\)](#)



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