



Item No: 9

Meeting Date: Wednesday 21st November 2018

Glasgow City Integration Joint Board

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THE FAIRER SCOTLAND DUTY

Purpose of Report:	To brief members on the new 'Fairer Scotland' duty, which came into force in Scotland in April 2018, the implications of the duty for the IJB and recommend action to meet these Duties.
Background/Engagement:	The new duty, forms a section of the Equality Act 2010 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 socioeconomic disadvantage. This report describes the duty and subsequent guidance and makes recommendation on the governance to discharge this duty as an integration authority.
Recommendations:	The IJB Performance Scrutiny Committee is asked to: a) note the inclusion of a Fairer Scotland Duty section in the IJB paper template for completion for strategic items; b) note an assessment of the Fairer Scotland Duty will be incorporated into the GGC NHS on-line EQIA system and related training and governance processes; c) note the use of this amended system for IJB business, thus providing a public record of considerations and mitigation measures; and d) note that future progress reports on Equalities to the IJB be amended to incorporate both the Equalities and the Fairer Scotland Duties and be reported annually, thus providing a public record of consideration.

Relevance to Integration Joint Board Strategic Plan:

This is a new IJB duty and will be incorporated into the new Strategic Plan.

Implications for Health and Social Care Partnership:

Reference to National Health & Wellbeing Outcome:	All
Personnel:	N/A
Carers:	N/A
Provider Organisations:	N/A
Equalities:	Is part of the Equalities duties of the IJB and embedded within equalities governance.
Financial:	To be determined
Legal:	This is a regulatory duty.
Economic Impact:	N/A
Sustainability:	N/A
Sustainable Procurement and Article 19:	N/A
Risk Implications:	None compliance could lead to legal challenge.
Implications for Glasgow City Council:	GCC are a named authority for the Fairer Scotland Duty and will have corporate arrangements for discharging this duty.
Implications for NHS Greater Glasgow & Clyde:	GGC NHS Board are a named authority for the Fairer Scotland Duty and will have corporate arrangements for discharging this duty.

1. Purpose

- 1.1 Brief members on the new 'Fairer Scotland' duty, which came into force in Scotland in April 2018, the implications of the duty for the IJB and recommend action to meet these duties.

2. Background

- 2.1 The Scottish Government first considered the socio-economic duty in 2009. It consulted on extending the duty to Scotland when the provision in the Equality Bill only extended to England and Wales. Most of the Equality Act 2010 came into force in October 2010. However the UK Government announced that the socio-economic duty would not be brought into force. Section 38 of the Scotland Act 2016 provided the mechanism for the Scottish Government to commence the socio-economic duty. This followed a recommendation from the Smith Commission. The Equalities and Human Rights Committee approved the regulations on 1 March 2018.
- 2.2 The Fairer Scotland duty came into force on 1 April 2018. It requires named public authorities to actively consider how they can reduce inequalities of outcome caused by socio-economic disadvantage, when they make strategic decisions.
- 2.3 The duty is set out under Part 1 of the Equality Act 2010, as the 'public sector duty regarding socio-economic inequalities'. It has been commonly referred to as the socio-economic duty. The Scottish Government has renamed it the 'Fairer Scotland Duty' following feedback about the clarity of the original name.

3. Interim Guidance for Public Bodies

- 3.1 This draws on comments from over 120 respondents to the Scottish Government's consultation. The Interim Guidance for public bodies was published in April 2018 - <http://www.gov.scot/Resource/0053/00533417.pdf> and explains the key terms of the duty, including:
 - Socio-economic disadvantage – this means living on a low income compared to others, with little or no accumulated wealth, leading to greater material deprivation and restricting the ability to access basic goods and services. As well as considering areas of deprivation, the guidance refers to 'communities of place' and 'communities of interest':
 - Inequalities of outcome – this means measureable differences between those who have experienced socio-economic disadvantage and the rest of the population. Examples include life expectancy and educational attainment.
 - Strategic level – these are key high-level decisions that affect how the public body fulfils its intended purpose, over a significant period of time. These would normally include strategy documents and decisions about setting priorities, allocating resources, and commissioning services.
- 3.2 The guidance also sets out an approach for public bodies to meet the duty. It says there is an expectation that public bodies will:
 - actively consider what more they can do to reduce the inequalities of outcome in any major strategic decision they make, and
 - publish a written assessment, showing how they have done this

A five stage process is set out to help public bodies meet the duty. It is similar to the steps used by public bodies when undertaking an Equality Impact Assessment.

- 3.3 The Fairer Scotland duty differs from the public sector equality duty as it applies to a smaller number of public authorities and only to decisions of a strategic nature. However, there will be some overlap because people who share particular protected characteristics are often at higher risk of socio-economic disadvantage.
- 3.4 Consequently the duty is not framed as creating an additional 'Protected characteristic' group under the Equality Act 2010. These remain: age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, sexual orientation, pregnancy and maternity. Public Authorities will need to guard against such confusion e.g. an individual would not be able to make a claim of discrimination on grounds of socio-economic disadvantage.
- 3.5 The Fairer Scotland Duty is subject to a three-year implementation phase. The idea is that this will allow time for public bodies to develop best practice and become fully compliant with the duty. The Scottish Government said:

"If public bodies are not compliant, or if the duty is not having the effect Ministers wish to see, the Scottish Government will consider how the duty can be strengthened, which may include new primary legislation"

4. Public bodies covered by the duty

- 4.1 The Fairer Scotland duty applies to the public authorities listed in The Equality Act 2010 (Authorities subject to the Socio-economic Inequality Duty) (Scotland) Regulations 2018. These include:

- Scottish Ministers (this covers the Scottish Government, Accountant in Bankruptcy, Disclosure Scotland, Education Scotland, Scottish Prison Service, Scottish Public Pensions Agency, Student Awards Agency for Scotland, Transport Scotland, and the new Social Security Scotland agency)
- Local authorities
- territorial health boards
- special health boards
- Integration Joint Boards
- the Scottish Police Authority
- Highlands and Islands Enterprise
- Scottish Enterprise
- Revenue Scotland
- Food Standards Scotland
- Keeper of the Records of Scotland
- Keeper of the Registers of Scotland
- the Scottish Courts and Tribunals Service

The list is restricted by the provisions set out in Part 1 of the Equality Act 2010. A three point test required that only public authorities with governance and jurisdiction within Scotland are included. The Scottish Government plans to add any future public bodies that meet the test. Any other new public bodies that meet the test may require to be brought under the duty through regulations.

5. Integration Authority

5.1 This is a new duty of all the named public bodies in Scotland and as such organisations are developing the governance processes required to ensure compliance with the duty. The IJB needs to consider its strategic decision making processes are compliant. This could be achieved by;

1. Identifying risk in relation to strategic decisions

Strategic decisions which require assessment will be identified in IJB and Committee papers using the front page risk assessment sheet. Reports should include, as well as Equalities a section on the Fairer Scotland Duty for completion in relation to strategies.

2. Adapting the Equality Impact Assessment (EQIA) process to reflect the new duty.

An assessment of the Fairer Scotland Duty will be incorporated into the GGC NHS on-line EQIA system. Guidance will be included in the EQIA training for lead reviewers. As the IJB has previously approved the use of the NHS process for IJB business this will ensure that strategic EQIA's incorporate an assessment of the socio economic impact. This will also ensure a public record of these assessments.

3. Strategic Financial decisions

That the financial aspects of strategic decisions are considered in relation to the duty through assessment at the Integration Transformation Board. Again reports to the Board include a Fairer Scotland Duty assessment.

4. Fairer Scotland Duty Reporting

That future progress reports on Equalities to the IJB be amended to reflect Equalities and the Fairer Scotland Duty and be reported through the same governance arrangements. This will be for IJB purposes only as the IJB will still be required to prepare a progress report on the current Equalities Scheme in line with the existing requirements of the Equalities Act (2010).

6. Recommendations

6.1 The IJB Performance Scrutiny Committee is asked to:

- a) note the inclusion of a Fairer Scotland Duty section in the IJB paper template for completion for strategic items;
- b) note an assessment of the Fairer Scotland Duty will be incorporated into the GGC NHS on-line EQIA system and related training and governance processes;
- c) note the use of this amended system for IJB business, thus providing a public record of considerations and mitigation measures; and
- d) note that future progress reports on Equalities to the IJB be amended to incorporate both the Equalities and the Fairer Scotland Duties and be reported annually, thus providing a public record of consideration.