

The Socio-Economic Duty

1. INTRODUCTION

- 1.1** The Scottish Government on 18 July published a consultation on the introduction of the Socio-Economic Duty (SED) in Scotland.

2. NEXT STEPS

- 2.1** The Scottish Government has committed to bring forward legislation to commence the SED by the end of 2017 and is therefore undertaking a focussed 8 week consultation¹ and there will be further development of guidance on how the duty should be operationalised. A copy of the consultation questions are in Annex A.
- 2.2** The socio-economic duty asks particular public authorities to do more to tackle the inequalities of outcome caused by socio-economic disadvantage. In particular, the duty aims to make sure that strategic decisions about the most important issues are carefully thought through so that they are as effective as they can be in tackling socio-economic disadvantage and reducing inequalities of outcome. These strategic decisions would include, for example, an economic development strategy; or an annual budget setting out key investment choices. The SED and the wider impact assessment approach to strategic matters is seen as a vital part of the Fairer Scotland Action Plan and also the inclusive growth agenda of Scotland's Economic Strategy. The main outcome that the Scottish Government is looking for from the introduction of the duty is improved decision-making that genuinely leads to better outcomes for those experiencing disadvantage.
- 2.3** Strategic public authorities, those that tend to be the most influential will be covered by the duty. They will have the opportunity to show that they both understand the key socio-economic inequality gaps and have taken account of them in the decisions they make. some examples of strategic decision making where public authorities should explicitly consider their socio-economic responsibilities and there is a specific reference to regional transport strategies and disability delivery plan for all public authorities covered by the duty. However, the proposal for strategic bodies to be covered by the duty set out in the consultation paper does not include SEStran or regional transport partnerships as a strategic public authority be covered by the duty despite highlighting an RTS as a key example of a sectoral strategy. At present the list of authorities to be bound by the duty is Scottish Ministers including Transport Scotland, Local Authorities, NHS Health Scotland, Integration Joint Boards (IJBs), Regional Health Boards, The Scottish Police Authority, Highlands and Islands Enterprise and Scottish Enterprise.

¹ <https://consult.scotland.gov.uk/social-justice/the-socio-economic-duty/>

- 2.4** The list of authorities to be bound to the duty is mainly larger public bodies than RTPs. However, perhaps the closest authority to RTPs is IJBs. Similar to RTPs they are body corporate, which have larger budgets and functions presently than Model 1 RTPs. They deliver strategic planning of functions delegated to them by the Council and relevant Health Board and prepare a Strategic Plan. However, in light of continuing discussions for a non-model 1 status for SEStran and the specific mention of RTS in the guidance, this could be a relevant comparator in terms of SED coverage and shared function/responsibilities between larger strategic authorities already covered by the SED individually when exercising their functions in a body corporate structure.
- 2.5** However, it's not the case that the Scottish Government can simply add any public sector organisation to the list of bodies to be covered by the duty. The bodies in question must be equivalent, in some way, to the English list of authorities set out in the Equality Act 2010. So there would need to be an argument as to why the bodies in question should be considered to have equivalence to that list. It is proposed that SEstran could argue equivalence with a "regional development agency" as originally specified in the Equality Act 2010 in any response seeking inclusion within the duty. Certainly, the original 2008 consultation² on the Equality Bill and 2010 guide³ on the proposed duty to reduce socio-economic inequalities both clearly seek to include access to transport as a key matter of equality and equity. When the UK Government consulted the Scottish Government in 2009 it was on the premise that when SED was introduced in Scotland it would have specific guidance issued and take account of different structures and circumstances, including different geographies of public bodies. The 2010 guide also clearly references Regional Development Agencies (RDAs) as taking strategic decisions on transport priorities and infrastructure and working on a partnership activity basis with and across multiple local authorities. Therefore, there appears to be a clear equivalence of RTPs to RDAs referenced in the 2010 Act in terms of the nature of strategic decisions.
- 2.6** The SED is one of a number of public sector duties with a socio-economic focus. SEstran as a Community Planning Partner⁴ is already subject to the requirement in the Community Empowerment (Scotland) Act 2015 which requires Community Planning Partnerships (CPPs) to act with a view to reducing inequalities of outcome which result from socio-economic disadvantage unless the CPP considers that it would be inappropriate to do so.
- 2.6** The Partnership Director has sought further information from The Scottish Government Social Justice team and Equality and Human Rights Commission Scotland on the inclusion of Regional Transport Strategies as an example but the proposed exclusion of Regional Transport Partnerships from the SED. The consultation team have outlined that they have been

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/238713/7431.pdf

³ http://www.equality-ne.co.uk/downloads/512_equality-bill-duty.pdf

⁴ <http://www.legislation.gov.uk/asp/2015/6/schedule/1>

taking advice about which public bodies should be covered by the duty, based on producing an equivalent list to the that list of English bodies within the Equality Act 2010. However, they are aware that there may be scope to include other bodies and the list included in the consultation document is not an exhaustive list and the consultation allows for further suggestions and both Scottish Government and EHRC Scotland were pleased within the initial enquiry from SEStran. They also highlighted that there is nothing preventing any public sector body not covered by the duty from starting to act as if it were covered and for example impact assessing strategic decision making for socio-economic impacts. The recent award nominated co-design work with Young Scot⁵ is an example which could be further developed to enable this approach to focus on communities within disadvantaged places and also with particular disadvantaged communities of interest.

2.7 However, given in the recent Planning Review consultation and other previous policy and legislative consultations, the SEStran Board have wished to emphasise the “key agency” nature of SEStran as an RTP, it could appear a logical step to ask for recognition within the forthcoming legislation to include SEStran. However, emphasising the proportionate nature relative to the size of the public body as outlined by Government’s consultative expectations, as the current list of public authorities are larger public bodies with the noted potential example of IJBs where a body corporate has a membership of larger SED bound authorities already. The SED would apply to strategic decisions in SEStran’s case and relative resources this would be focussed presumably on the RTS and annual budget. However, since our two main funding sources are Transport Scotland and collectively 8 councils all who would be bound by the duty as individual strategic bodies. Therefore, even if not legislatively bound by the duty in future our main funders would presumably like us to be able to demonstrate our contributions in this regard with our strategic decisions as well as our input to CPPs and our existing duty under the 2015 Act as CPP partners. The consultation recognises that having due regard means operating with existing thresholds and the need to adopt a coherent and complementary policy framework. The proposed duty that the consultation document outlines a clear statement that this does not necessarily mean public authorities are required to spend additional resources.

2.8 In recent submissions to the Royal Society of Arts Inclusive Growth Commission, the pre-engagement survey of the National Transport Strategy Review and the Planning Review consultation, we have emphasised the relationship of transport to social and economic inequalities. SEstran highlighted that RTPs could be a key mechanism for addressing these gaps and delivering the connectivity, mobility and accessibility outcomes required across several Local Outcome Improvement Plans (LOIPs) through the RTS on the strategic and cross-boundary issue of transport infrastructure and services.

⁵ http://www.sestran.gov.uk/wp-content/uploads/2017/01/XRoute_document_2016_Final_2.pdf

- 2.9** The Royal Society of the Arts (RSA) Inclusive Growth Commission final report highlights the need for an integrated economic and social policy emphasising the need for place-based strategies to deliver inclusive growth across the UK. SEStran noted the Royal Town Planning Institute comment in their 2016 “Poverty, Place and Inequality” policy paper highlighting the significant severance effect of area-based disadvantage for individuals. Those living in certain less affluent areas are from evidence less mobile, more reliant on public transport and less able to commute to job opportunities given expensive and/or fragmented transport networks. Previous studies have highlighted that those who are least skilled or most remote from the labour market have the least locational flexibility in seeking new job or training opportunities and that this spatial deficiency rather than lack of skills or training has particularly afflicted some communities and individuals within them in terms of receipt of positive outcomes. We have in our recent responses identified the need for more regional planning to deliver and bridge the gap between national and local outcomes delivery especially concerning the sustained delivery of economic and employability outcomes. We highlighted that Scottish Ministers have said they will invoke SED of the Equality Act 2010 in Scotland. Indeed, we questioned whether the SED could be used to readdress current transport and wider decision-making concerns, given how vital and inclusive accessible transportation infrastructure and place-based solutions are to community regeneration, as highlighted so clearly by the Scottish urban regeneration network in their manifesto last year as a key priority for action.
- 2.10** In addition, in recent Model 3 discussions some members questioned the potential impact of a larger authority on the distribution of for example combined bus subsidy budgets. The inclusion of SEStran within the scope of the duty might enable a mechanism for some strategic decisions to focus on communities within particular disadvantaged places but also within particular disadvantages communities of interest. The consultation is clear that the Government expects public authorities covered by the duty to focus on the specific nature of socio-economic disadvantage for people in for example rural and remote areas. This could be added to the initial framework proposed by Prof Tom Rye included in Annex B to this report, as an example of the possible use of the duty in strategic decisions.
- 2.11** Also, the First Minister’s Independent Advisor on Poverty and Inequality, published a second report⁶ in early July 2017. Ms Naomi Eidenstadt made a specific recommendation for doing more to provide subsidised/free transport for young people aged 25 and under. The report highlights that Travel-to-work patterns show that disadvantaged people are less mobile and more reliant on public transport. Easy access to good transport services, not least for leisure and social facilities, is also important in relation to social isolation and exclusion. This may be particularly key for disabled young people, care leavers and young carers. The report also outlines a need to think about improving economic prospects in poor areas, we also need to ensure that costs of transport do not prevent young people from seeking jobs further

⁶ <http://www.gov.scot/Resource/0052/00522051.pdf>

afield. The report also offers a bold view around changing entitlements to concessionary travel for some older people. It fully supports bold action in this area – with the proviso that there is a generational transfer so that what older people lose, younger people gain. As the evidence review associated with the Independent Advisor’s work shows, young people today are significantly disadvantaged in a range of ways compared to previous generation.

2.12 Therefore, if the SEStran Board and its constituent councils still feels that the socio-economic duty is a key duty/power to target resources at specific transport inequalities and associated area-based disadvantage when addressing regional transport strategic issues, it would seem appropriate to seek to lobby for inclusion in the list of public authorities covered by the duty however in a manner proportionate to our size focussed on key function of an RTS but with a view to any further functions delegated to SEStran as part of a non Model 1 future role. Members may also wish to mandate the Chair and Partnership Director to discuss the potential for a collective response with RTP Chairs at their meeting on 22/23 August.

3. CONCLUSION / RECOMMENDATIONS

- 3.1 The paper seeks to invite comment from the Board on the proposal from officers to seek SEStran’s inclusion as a regional body in the list of strategic bodies to be subject to the Duty as an equivalent body to a Regional Development Agency.
- 3.2 If the Board is in agreement, it is asked to agree to delegate to the Partnership Director in consultation with the Chair to respond to the consultation by 12 September, and to take the opportunity for further discussion with RTP Chairs on 22/23 August.

George Eckton
Partnership Director
 4th August 2017

Policy Implications	Potential changes to the planning system which could have impacts on other planning systems including transport planning.
Financial Implications	SEStran’s budget would be subject to a proportionate inequalities of outcome caused by socio-economic disadvantage analysis every year.
Equalities Implications	SEStran’s future RTS’s and major projects would be subject to a proportionate inequalities of outcome analysis as examples of discussions of a strategic nature.

Climate Change Implications	None
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Annex A – Copy of Consultation Questions

SUMMARY OF QUESTIONS

QUESTION 1 – The key terms defined in this section are: Socio economic disadvantage Inequalities of outcome Decisions of a strategic nature Due regard Do you agree that the definitions of these are reasonable and should be included within the Scottish Government’s forthcoming guidance on the socio-economic duty?

QUESTION 2A – Do you agree that the socio-economic duty should apply to the Scottish public authorities named here? If not, please specify which you do not think it should apply to and why?

QUESTION 2B – Do you think the duty should apply to any other public authorities, similar to those listed in the Equality Act 2010? If so, please name them and explain why you think the duty should apply.

QUESTION 3A – Do you have any comments on the steps set out in SECTION 3?

QUESTION 3B - What other actions could public authorities take to demonstrate that they are meeting the duty?

QUESTION 3C – Could you offer suggestions as to how public authorities could improve budgetary analysis and reporting so as to take better account of inequalities related to socio-economic disadvantage?

QUESTION 3D – Can you offer examples of how public authorities and others have made best use of the expertise of people with direct experience of poverty?

QUESTION 3E - What kind of guidance and support on meeting the duty would be most useful for public authorities?

QUESTION 3F – Do you have a view on whether public authorities should use existing monitoring frameworks to track whether the socio-economic duty is making a difference to outcomes over the long term?

QUESTION 4A - Once the socio-economic duty is introduced, the Scottish Government is keen for public authorities to look strategically across all planning processes in place to maximise their impact. What could public authorities and the Scottish Government do to make sure that the links between the different duties are managed effectively within organisations?

QUESTION 4B – Can you offer examples of good practice in taking an integrated approach to issues such as poverty, equality, and human rights?

ANNEX B

TRI, Edinburgh Napier University

Note to SESTRAN on tendered bus service appraisal methods from other metropolitan areas, and Edinburgh

Purpose of the note

Were SESTRAN to become a Model 3 Regional Transport Partnership, it is likely that one of the functions that it would take over from constituent authorities would be tendered bus services (also known as socially necessary or supported bus services); that is, those services that are not provided by the market but are judged to be required to fill gaps in the commercially-provided network. A challenge that any authority faces in allocating a limited budget for tendered bus services is in deciding which services to support, as it is highly probable that demand for services from residents and local members will exceed the available budget.

Combined Authorities in England face the same challenge. It was therefore deemed useful to review the methodologies that CAs have developed to allocate their limited budgets in a transparent way that maximises the effectiveness of the services, and therefore the budget, in achieving their transport and wider objectives. The three authorities considered were the Northeast, West Midlands and West Yorkshire CAs and their transport arms Nexus, TfWM and Metro. For comparative purposes, the methodology used by City of Edinburgh Council was also considered.

The total budget for tendered services in each area is as follows:

- Nexus
- TfWM -
- Metro - £19.05 million (2014/15) for a population of 2.2 million
- CEC – £1.17 million (2015/16) for a population of 460,000

Results

A discussion with Nexus revealed that they do not use any formal appraisal mechanism for deciding which services to support. The area is relatively small, highly urban and below the GB average for income per head; in short, it is “good bus territory”. This means that there is a relatively dense commercial network, which gives rise to relatively few demands for supported services to fill gaps in that network. The person interviewed noted that Nexus had protected its tendered services budget in the past few years and that it generally receives few requests for new supported services. On this basis, a formal methodology is not currently required.

All other authorities are not in this situation. They are larger and/or have wealthy and/or rural areas where the commercial network does not provide a sufficient level of service to meet social needs (primarily of people living in those areas with no access to a car). Therefore, each has developed its own transparent methodology to assess whether a service should be retained; or added. In the case of CEC; each service (or proposed service) is scored against the criteria, each of which has a weighting, in order to derive an overall score for each service. In all areas, the main criteria in these methodologies are as follows:

Whether there is an existing commercial service within a reasonable walking distance of the community in question

The default position of Metro and TfWM is that a service should be available that at least links communities to the nearest local centre or transport hub where they can then transfer onto commercial public transport. If there is a commercial service that already does this then there is no case for a tendered service. The definition of reasonable walking distance is given below. A similar consideration is implied in CEC's criteria.

Key destinations and journey purposes

For TfWM the highest priority journey purpose (and therefore highest priority for funding for subsidised services) is access to employment. Metro does not prioritise journey purposes per se. CEC does not prioritise journey purposes or destinations.

If there is a commercial service, its frequency and hours of operation, and where it goes

TfWM and Metro define minimum levels of service that should be met by the network in linking users to the nearest district centre or hub. TfWM in its built-up areas aims for a half hourly daytime service and hourly at other times and in other locations. Metro defines the minimum as hourly. If the commercial network does not meet these minimum standards, there is a case for considering a subsidised service. CEC considers the absence of alternatives to the tendered services, related to walking distance to commercial services.

Walking distances to existing commercial or subsidised services

These are defined by TfWM and Metro, but not CEC. Metro defines a reasonable walking distance to an existing service as 600 metres or 10 minutes' walk for the "majority of households in a community". TfWM defines it as follows:

- Dense urban areas: 400m in the weekday daytime and 700m at other times
- Lower density urban areas: 700m at all times
- Rural areas: 1.5km at all times

If these walking distances are exceeded there is a case for a new service.

In all three cases, reasonable walking distances may be reduced if the area is very hilly and/or has a high proportion of elderly people.

The nature of the population (to be) served

CEC gives additional weight to services serving areas that are poorer, have a higher percentage of elderly people and a higher percentage of non-car owning households than the average. TfWM and Metro do not explicitly mention these criteria but have regard to demographics, particularly age, when assessing reasonable walking distances.

Use of current or proposed tendered service

This is mentioned in all three organisations' documents. CEC do not quantify a minimum viable level of usage, however. TfWM make a distinction between services that provide a one-off link (for example, to and from a hospital once a day) and regular services but for both a demand of fewer than 8 people per trip or hour means a service is not viable; 8-10 is sufficient to justify a link to an interchange; and more than 10 can justify a through service. Metro look only at passengers per hour and here 10 per hour is a trigger at which consideration is given to reducing the service, and 7 per hour may lead to withdrawal. If demand is 24 passengers per hour or more then Metro would expect a commercial service to be provided.

Cost per passenger of current or proposed tendered service

This is only explicitly quantified by Metro. A subsidy of £3 per passenger or more will cause a service to be reviewed for cost reduction; and £4 per head or more will make it liable to be withdrawn.

Summary

All the authorities reviewed aside from Nexus/NECA have a set of criteria for evaluating existing services and requests for new ones. These criteria are broadly similar but the thresholds are defined differently in the different areas. There is room for a certain amount of subjectivity in the assessment of how a service performs against these criteria. Were SESTRAN to have a budget for tendered services across the region, it is recommended that:

- It adopts a set of criteria similar to those reviewed here.
- It sets thresholds for those criteria, and then provides illustrations of how different levels of threshold could affect the likelihood that certain types of service would be funded. For example, different levels of thresholds for walking distances, particularly if they vary between rural and urban areas, would have a significant impact on the proposed distribution of funds for supported services.
- It adopts a final set of thresholds.
- A matrix scoring approach is used to assess existing and new proposals for services.