

Meeting of:	Cabinet
Date of Meeting:	Monday, 22 March 2021
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Arrangements for the Commencement of the Socio-economic Duty
Purpose of Report:	To provide Members with information on how the Council will manage its responsibilities to meet the requirements of the Socio-economic Duty.
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Rob Thomas, Managing Director
Elected Member and Officer Consultation:	Head of Policy and Business Transformation and Corporate Management Team
Policy Framework:	This is a matter for Executive decision.
<p>Executive Summary:</p> <ul style="list-style-type: none"> • This report brings to the attention of the Cabinet the Council's arrangements for meeting the requirements of the Welsh Government's commencement of the Socio-economic Duty on 31 March 2021. • The Welsh Government issued interim guidance on 1 April 2020 and will issue statutory guidance on 31 March 2021. The statutory guidance has been co-produced by the Welsh Government, relevant public body representatives, and other key stakeholders through a series of events. • When the duty commences on 31 March 2021, if a relevant public body fails to perform a duty, an individual or group whose interests are adversely affected by that public body's decision, may be able to bring a judicial review claim against that authority. • The Council has amended its equality impact assessment process to facilitate consideration of the socio-economic duty and will further review this following issue of the statutory guidance. 	

Recommendations

1. That Cabinet notes the content of this report and appendices.
2. That Cabinet approve the amended equality impact assessment process as described in the body of the report and in Appendix A.
3. That Cabinet notes the briefing note designed to raise awareness of the socio-economic duty (Appendix B).

Reasons for Recommendations

1. To inform Cabinet of the commencement of the socio-economic duty on 31 March 2021.
2. To ensure the Council's amended equality impact assessment process that will facilitate consideration of the socio-economic duty is approved for use.
3. To provide Cabinet with an overview of the briefing to raise awareness of the socio-economic duty.

1. Background

- 1.1 The Equality Act 2010 includes a Public Sector Equality Duty (the 'general duty') making it unlawful to discriminate against those persons with a protected characteristic under the Act. It places a 'due regard' duty on public bodies to ensure that advancement of equality of opportunity is a key consideration for public authorities when carrying out their functions.
- 1.2 The Equality Act 2010 includes a socio-economic duty but it has lay dormant since the Act came into force. The Wales Act 2017 devolved power to Welsh Ministers to commence the socio-economic duty in Wales. Welsh Ministers have used this power to commence the duty.
- 1.3 The Welsh Government has decided to do this in response to calls from many stakeholders for it to take action to safeguard equality and human rights. This was in the context of uncertainty about the potential effects of the UK's exit from the European Union. More recently, other matters such as COVID-19 and the Black Lives Matter movement have highlighted and/or exacerbated inequalities.
- 1.4 At the meeting of Cabinet on 8th March 2021, a [report](#) on the impact of coronavirus on our communities was considered. That report provides important and relevant information pertinent to the socio-economic duty.
- 1.5 There is a strong link between inequality and socio-economic disadvantage. The reason for the commencement of the socio-economic duty is to enable people to fulfil their potential no matter what their socio-economic background and circumstances.

- 1.6 Commencing the duty builds on what has been achieved through the Equality Act 2010 and the Well-being of Future Generation (Wales) Act 2015. It will put tackling inequality at the heart of strategic decision-making. This combination will help to address inequality from different perspectives. The Equalities and Human Rights Commission and Future Generations Commissioner for Wales have jointly prepared ['A More Equal Wales Mapping the Duties'](#) to help public bodies consider opportunities to apply the socio-economic, the public sector equality and the well-being of future generations duties in an aligned way.
- 1.7 Cabinet received a report on 20 January 2020 outlining the Council's response to the Welsh Government's consultation on commencement of the duty and indicating further information would be provided on the Council's arrangements for the meeting the requirements of the duty.
- 1.8 This report provides Cabinet with an overview of the socio-economic duty.
- 1.9 The report recommends Cabinet considers the content of this report and approves the approach to demonstrating the duty is met as part of a revised Equality Impact Assessment process.

2. Key Issues for Consideration

- 2.1 The statutory requirement of the duty places a legal responsibility on relevant bodies when they are taking strategic decisions to have due regard to the need to reduce the inequalities of outcome resulting from socio-economic disadvantage.
- 2.2 Socio-economic disadvantage is defined in the interim guidance as 'living in less favourable social and economic circumstances than others in the same society.'
- 2.3 Examples of strategic decisions include setting and publishing well-being objectives; preparation of a local development plan, local transport plan, housing strategy, economic development or regeneration strategy such as City deals; and development of education policies.
- 2.4 Before making these decisions, we need to take account of evidence and potential impact; through consultation and engagement, understand the views and needs of those impacted by the decision, particularly those who suffer socio-economic disadvantage; welcome challenge and scrutiny; and drive a change in the way that decisions are made and the way that decision makers operate.
- 2.5 The duty will apply to both new strategic decisions and when reviewing previous strategic decisions. The duty is not retrospective, so we do not have to give due regard to decisions which have been made before commencement.

- 2.6** Whilst we are not required to report on this statutory duty, we need to be able to demonstrate how we have discharged it. If an individual or group whose interests are adversely affected by our decision, in circumstances where that individual or group feels that we have not properly complied with the duty, they may be able to bring a judicial review against us.
- 2.7** There is a requirement to be able to show that we have given due regard to the socio-economic duty in making our decisions. Due regard is giving weight to a particular issue in proportion to its relevance. To help us do this and provide an audit trail, we have developed our equality impact assessment process to include consideration of the impact of proposals on people and communities that are socio-economically disadvantaged.
- 2.8** The amended Equality Impact Assessment form is attached for information (Appendix A) and will assist us to keep appropriate records of decision making and an audit trail. This is a live document which we will develop further to reflect the statutory guidance when it is introduced on 31 March 2021 and to provide links to guidance and relevant information that will assist decision makers in implementing the duty.
- 2.9** At a recent briefing session on the duty involving the Equality and Human Rights Commission and the Future Generations Commissioner, there was a clear expectation that public bodies will prioritise the deepest inequalities and make a real difference to people's lives. We need a good knowledge of our communities to do this well. We need to be able to demonstrate that we change our decisions as a result of what we find out when talking to people with lived experience of poverty and then track our success in reducing those inequalities. This further demonstrates the value of the Community Impact Assessment undertaken and considered earlier in the month as referred to above.
- 2.10** Members will note that the Strategic Equality Plan 2020 - 2024 equality objectives are framed within the corporate well-being objectives. There is a much clearer link than between previous corporate and equality plans thereby creating a shared focus on our priorities. Members will also recall that we included actions relating to the anticipated socio-economic duty. There will be focus on all aspects of the duty when delivering the Corporate Plan.
- 2.11** We have taken the opportunity to strengthen the question relating to the Welsh Language in the equality impact assessment. There are no new duties arising from the Welsh Language Standards, but the Welsh Language Commissioner has provided further guidance on policy making good standards.
- 2.12** There are a number of guidance documents and resources available to help understand the duty and prepare for meeting its requirements. We have brought these together in a briefing note (Appendix B) which we will use to raise awareness amongst decision makers in the Council.

- 2.13 We are exploring the possibility of providing training sessions to assist Members and Chief Officers familiarise themselves with their new responsibilities.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

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- 3.1 The Welsh Government's commencement of the socio-economic duty will contribute to the achievement of the well-being goals, and in particular, will support progress towards the following:
 - A more equal Wales - a society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances).
 - A Wales of cohesive communities - attractive, viable, safe, and well-connected communities.
- 3.2 The Council's Strategic Equality Plan considered the requirements of the interim guidance on the Socio-economic Duty and contains a number of strategic actions relating to these matters. Cabinet will also note that the Strategic Equality Plan has translated the Council's well-being objectives into Strategic Equality Objectives so as to demonstrate the interconnectedness and contribution to overall well-being for residents of the Vale of Glamorgan.

4. Resources and Legal Considerations

Financial

- 4.1 There are no specific financial implications arising from the consultation on the Welsh Government's commencement of the socio-economic duty. Implementation of the Duty will be required to be undertaken within existing resources via an amended Equality Impact Assessment process.
- 4.2 The potential to deliver training to Council Members and staff is currently being explored, for which there may be a cost that would be met from the existing budget of the Equalities Team.

Employment

- 4.3 There are no direct employment implications arising from the Welsh Government's commencement of the socio-economic duty.
- 4.4 Training will be required for council officers and members in understanding the requirements of the Duty and how the Council will demonstrate it is meeting that Duty. A briefing note has been prepared for this purpose (Appendix B) and we are currently exploring other ways of raising awareness, particularly for decision makers. We will look to implement training following issue of the Welsh Government's statutory guidance.

Legal (Including Equalities)

- 4.5** The Equality Act 2010 created a public sector duty, replacing the race, disability and gender equality duties. The duty came into force in April 2011. The duty covers age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. Under the general duty, public sector organisations must have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation;
 - advance equality of opportunity between different groups;
 - foster good relations between different groups.
- 4.6** The duty to have due regard to the need to eliminate discrimination also covers marriage and civil partnership.
- 4.7** When the Equality Act was enacted, the socio-economic duty lay dormant on the statute book, as the UK Government elected not to commence it. The Wales Act 2017 legislated for a new model of Welsh Devolution which included devolving the power to commence the socio-economic duty in Wales to Welsh Ministers. Section 45 of the Wales Act 2017 amends Part 1 of the 2010 Act to achieve this. The Welsh Ministers intend to use this power to commence Sections 1 to 3 of the 2010 Act in Wales - the socio-economic duty.
- 4.8** In its role as regulator of the 2010 Act, the Equality and Human Rights Commission will promote and provide advice and guidance on implementing the socio-economic duty in Wales.
- 4.9** The Equality Act 2010 does not establish 'socio-economic discrimination' - socio-economic status is not a protected characteristic in the Act. Therefore, the Equality and Human Rights Commission will not undertake enforcement on the basis of an 'unlawful act'.
- 4.10** The duty commences on 31 March 2021, so if a relevant public body fails to perform a duty, an individual or group whose interests are adversely affected by that public body's decision may be able to bring a judicial review claim against that authority.

5. Background Papers

Socio-economic Duty

[Welsh Government's Commencement of the Socio-economic Duty: Consultation Response](#)

Welsh Language

[Policy Making Standards: Creating opportunities for persons to use the Welsh language and treating the Welsh language no less favourably than the English language - Good practice advice document](#)

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

Please click on headings to find [general guidance](#) or section guidance with an example.

You will find supporting information in appendices at the end of the guidance.

When you start to assess your proposal, arrange to meet Tim Greaves, Equality Co-ordinator, for specific guidance. Send the completed form to him for a final check and so that he can publish it on our Vale of Glamorgan equality web pages.

Please also contact Tim Greaves if you need this equality impact assessment form in a different format.

1. [What are you assessing?](#)

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2. [Who is responsible?](#)

Name		Job Title	
Team		Directorate	

3. [When is the assessment being carried out?](#)

Date of start of assessment	
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4. [Describe the proposal?](#)

What is the purpose of the proposal?
Why do you need to put it in place?
Do we need to commit significant resources to it (such as money or staff time)?

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

What are the intended outcomes of the proposal?
Who does the proposal affect? Note: If the proposal affects lesbian, gay, homosexual, or transgender people, ensure you explicitly include same-sex couples and use gender neutral language.
Will the proposal affect how other organisations work?
Will the proposal affect how you deliver services?
Will the proposal impact on other policies or practices?
Can you change the proposal so that it further promotes equality of opportunity and fosters good relations?
How will you achieve the proposed changes?
Who will deliver the proposal?
How will you know whether you have achieved the proposal's purpose?

5. [What evidence are you using?](#)

The Gunning Principles, established from past court cases, can be helpful in ensuring we apply fairness in engagement and consultation:

Principle 1: Consultation must take place when the proposals are still at a formative stage. You must not have already made up your mind.

Principle 2: Sufficient reasons must be put forward to allow for intelligent consideration and response. Have people been given the information and opportunity to influence?

Principle 3: Adequate time must be given for consideration and response. Is the consultation long enough bearing in mind the circumstances?

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

Principle 4: The product of consultation must be conscientiously taken into account when finalising the decision.

Have you complied with the duty to engage as described above and are you sufficiently informed to proceed?

Yes		No	
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Engagement (with internal and external stakeholders)

Consider communities of interest or place (where people are grouped together because of specific characteristics or where they live).

Please include engagement with internal networks where appropriate – GLAM and Ethnic Minority Network.

Consultation (with internal and external stakeholders)

Consider communities of interest or place (where people are grouped together because of specific characteristics or where they live).

Please include consultation with internal networks where appropriate – GLAM and Ethnic Minority Network.

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

National data and research

Including Equality and Human Rights Commission's 'Is Wales Fairer 2018' Report, its Measurement Framework, the Future Generations Report 2020, Welsh Index of Multiple Deprivation, Census.

Local data and research

Including Vale of Glamorgan Council's Community Impact Assessment.

6. [How robust is the evidence?](#)

Does it show what the impact will be (positive and negative)?

What are the gaps?

What will you do about this?

What monitoring data will you collect?

How often will you analyse and report on this?

Where will you publish monitoring data and reports?

7. [Impact](#)

Is there an impact?

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

If there is no impact, what is the justification for thinking this? Provide evidence.

If there is likely to be an impact, what is it?

Age

Disability

Gender reassignment, including gender identity

Ensure policies explicitly include same-sex couples and use gender neutral language.

Marriage and civil partnership (discrimination only)

Pregnancy and Maternity

Race

Religion and belief

Sex

Sexual orientation

Ensure policies explicitly include same-sex couples and use gender neutral language.

Socio-economic considerations

Socio-economic disadvantage can be disproportionate in both communities of interest and communities of place – think about how this leads to further inequality of outcome and how intersectionality can exacerbate this.

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

Welsh language

How does your proposal ensure that you are working in line with the requirements of the Welsh Language Standards (Welsh Language Measure (Wales) 2011), to ensure the Welsh language is not treated less favourably than the English language, and that every opportunity is taken to promote the Welsh language (beyond providing services bilingually) and increase opportunities to use and learn the language in the community?

Human rights

How do you know?

Explain this for each of the relevant protected characteristics as identified above.

What can be done to promote a positive impact?

Explain this for each of the relevant protected characteristics as identified above.

What can be done to lessen the risk of a negative impact?

Explain this for each of the relevant protected characteristics as identified above.

Is there a need for more favourable treatment to achieve equal outcomes? (Disability only)

Will the impact be positive, negative or neutral?

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

Explain this for each of the relevant protected characteristics as identified above.

8. Monitoring ongoing impact

Date you will monitor progress and outcomes

Measures and outcomes that you will monitor

Date you will review implemented proposal and its impact

9. Further action as a result of this equality impact assessment

Possible Outcomes	Say which applies
No major change	
Adjust the policy	
Continue the policy	
Stop and remove the policy	

10. Outcomes and Actions

Recommend actions to senior leadership team

Outcome following formal consideration of proposal by senior leadership team

Equality Impact Assessment

Including the Welsh Language and Socio-economic Duty

11. Important Note

Where you have identified impacts, you must detail this in your Cabinet report when seeking approval for your proposal.

12. Publication

Where will you publish your approved proposal and equality impact assessment?

In addition to anywhere you intend to publish your approved proposal and equality impact assessment, you must send a copy to Tim Greaves, Equality Co-ordinator, to publish on the equality pages of the Vale of Glamorgan website.

13. Authorisation

Approved by (name)	
Job Title (senior manager)	
Date of approval	
Date of review	

Briefing on Commencement of Socio-economic Duty in Wales

The Welsh Government is commencing the Socio-economic Duty on 31 March 2021. It places a duty on the Council, as a public sector organisation in Wales, to consider how we might help reduce the inequalities associated with socio-economic disadvantage when we make strategic decisions.

Such decisions would include deciding priorities and setting objectives. Examples include the following:

- Strategic directive and intent
- Strategies developed at Regional Partnership Boards and Public Service Boards which impact on a public body's functions
- Medium to long term plans (for example, corporate plans, development plans, service delivery and improvement plans)
- Setting objectives (for example, well-being objectives, equality objectives, Welsh language strategy)
- Changes to and development of public services
- Strategic financial planning
- Major procurement and commissioning decisions
- Strategic policy development.

Before making these decisions, we need to do the following:

- Take account of evidence and potential impact.
- Through consultation and engagement, understand the views and needs of those impacted by the decision, particularly those who suffer socio-economic disadvantage.
- Welcome challenge and scrutiny.

- Drive a change in the way that decisions are made and the way that decision makers operate.

The duty will apply to both new strategic decisions and when reviewing previous strategic decisions. Note, the duty is not retrospective, which means we do not have to give due regard to decisions which have been made before commencement.

The duty is intended to complement and not compete with, or override, other statutory duties incumbent upon relevant public bodies, for example the Public Sector Equality Duty, or the Well-being of Future Generations (Wales) Act 2015.

There is no reporting duty attached to the duty. However, it is a statutory duty and we should be able to demonstrate how we have discharged it. Once the duty is commenced, if an individual or group whose interests are adversely affected by our decision, in circumstances where that individual or group feels the duty has not be properly complied with, they may be able to bring a judicial review claim against us.

We need to be able to show that we have given due regard to the duty in making our decisions. Due regard is giving weight to a particular issue in proportion to its relevance. To help us do this and to provide an audit trail, we have developed our equality impact assessment process to include consideration of the impact of proposals on people and communities that are socio-economically disadvantaged.

It is important that those involved in the strategic decision-making process understand the statutory requirement of the duty, particularly giving due regard and the requirements of their role in relation to this. For this reason, please read the guidance and resources listed below to give you a full understanding of the duty and your responsibilities.

Guidance and Resources

To assist public bodies in implementing the duty, the **Welsh Government** has issued guidance: '[The Socio-economic Duty: guidance and resources for public bodies](#)'.

It contains the following:

Guidance

[The Socio-economic Duty: guidance](#)

- [Preparing for the commencement of the Socio-economic Duty: non-statutory guidance](#)
- [Preparing for the commencement of the Socio-economic Duty: supporting information](#)
- [Commencing the Socio-economic Duty: factsheet](#)

Resources

[Socio-economic Duty: examples of inequalities of outcome](#)

- [A More Equal Wales: the Socio-economic Duty Examples of inequalities of outcome due to socio-economic disadvantage and COVID-19](#)
- [Socio-economic Duty: scrutiny framework](#)
- [A More Equal Wales: mapping guide](#)

Further information

[Statutory guidance will be issued when the Duty Commences.](#)

The Welsh Government will issue statutory guidance upon commencement of the duty.

The **Equality and Human Rights Commission** has produced two short films (both just over 2 minutes long):

[‘Making sense of poverty in Wales’](#)

[‘What is the Socio-economic Duty?’](#).