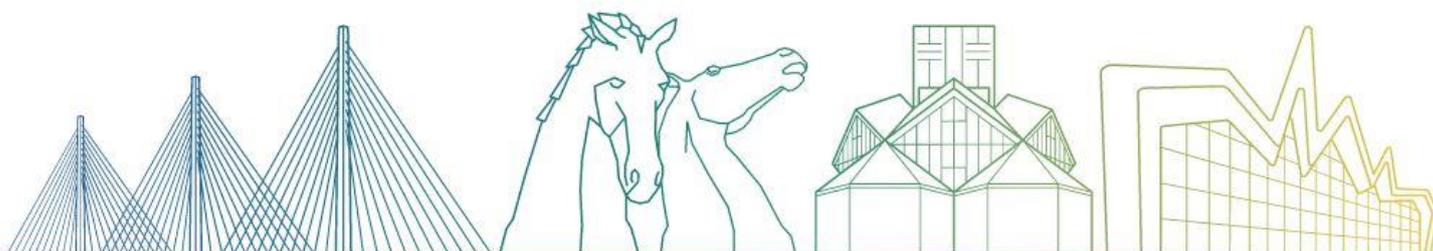


Equality Outcomes, Impact Assessments and Investment Decisions

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WHAT IS THE PURPOSE OF THIS GUIDE?

The Equalities & Investment project, started by the Equalities and Human Rights Commission (EHRC) and continued by Scottish Government, has developed a series of guides to support those making public spending decisions to embed best equality practice into their investment projects and programmes.

This guide covers:

- How to set equality outcomes for your work, and
- How to conduct Equality and Fairer Scotland assessments of your plans.

WHO IS IT FOR?

It aims to support those developing or making public spending decisions, including all City Region and Growth Deal (CRD) partners, such as national and local government officers, enterprise agencies and elected members. It offers advice on how to set equality outcomes for your work and how to conduct Equality & Fairer Scotland assessments of your plans.

AUTHORS

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CITY & REGIONAL DEALS IN CONTEXT

Over the next fifteen years City Region and Growth Deal investment from the Scottish and UK Governments, Local Authorities and the private sector, is set to reach £5bn. Every area of Scotland now has a City Region or Growth Deal in place or in development. As well as making major improvements to Scotland's infrastructure in excess of 70,000 new jobs are expected to be created. Each plan is based on local priorities and focuses on investments to support new business opportunities and markets in a wide range of industries from aerospace and aquaculture to tourism and technology.

Annual grant offer letters agreed between the Scottish Government and CRDs commit them to "...work(ing) with the Equalities and Human Rights Commission (EHRC) and others to explore opportunities to maximise the impact of the Programme to allow the benefits of growth to be shared by all and to advance overall equality of opportunity under the Equality Act 2010 including the new socio-economic duty that came into force in April 2018".

The Scottish Government is committed to achieving economic growth in Scotland that is inclusive. This means growth that combines increased prosperity with greater equality, creates opportunities for all, and distributes the benefits of increased prosperity fairly. To achieve this CRD Partnerships will need to consider how their investment decisions will advance equality of opportunity and decrease socio economic inequality for Scotland's most deprived communities, for women, ethnic minorities and disabled people.

To assist CRDs to achieve this the Scottish Government has seconded in a member of staff from the EHRC who will provide support and advice on equality and inequality issues.

THE LEGISLATION

The Equality Act was introduced in 2010 to help make Britain a fairer society.

The Act places particular duties on public authorities and other bodies when exercising public functions to reflect the pivotal role they can play in dismantling inequality and driving up positive outcomes for all.

THE PUBLIC SECTOR EQUALITY DUTY (PSED)

The **Public Sector Equality Duty**, also known as the general equality duty, came into force on 5 April 2011.

It covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race, religion or belief
- sex
- sexual orientation.

The general duty also covers marriage and civil partnerships, with regard to eliminating unlawful discrimination in employment.

Those bodies subject to the general duty, including national and local government, universities, colleges and NHS Boards, are required to demonstrate that they have given due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity
- Foster good relations

The EHRC has produced non-statutory guidance available to assist Scottish public authorities in meeting the general duty. To support the Duty's implementation the Scottish Government issued a series of specific duties including ones on assessing impact and procurement. The impact assessment duty requires a public body to consider the impact on equality of introducing or revising policies and practices.

THE FAIRER SCOTLAND DUTY (FSD)

The socio economic duty (Part 1 of the Equality Act 2010), also known as the **Fairer Scotland Duty [FSD]**, came into force in April 2018. Scotland is the only part of Great Britain where it is in force. The duty places a legal responsibility on listed public bodies in Scotland to actively consider using their functions to reduce inequalities of outcome, caused by socio-economic disadvantage, when making strategic decisions. Bodies need to be able to demonstrate how they have done this.

The public bodies covered by the FSD includes the Scottish Government, local authorities, Police Scotland and health boards. A full list of the authorities covered by the FSD is [here](#).

The type of decisions that the duty engages will be strategic, not routine, decisions, such as developing and adopting:

- Policing plans
- Housing plans
- City Region and Growth Deal & other major investment plans
- Transport Plans
- National and local strategic health plans.

Interim guidance is available for public bodies on the FSD. The Scottish Government is currently developing further guidance, reflecting good practice.

WHERE DOES EQUALITY SIT WITHIN CITY & REGIONAL GROWTH DEALS

In a partnership, public bodies covered by the Public Sector or Fairer Scotland duties carry their duties into that partnership. Where a decision is taken in that partnership, authorities must be able to demonstrate that they have met the duties in relation to their own contributions to the partnership.

This means that it is the CRD partners rather than the CRD itself that are covered by the duty and must be able to demonstrate that they have paid due regard to each of the three needs of the General Equality Duty and the Fairer Scotland Duty

EQUALITY IMPACT ASSESSMENT (EQIA) AND FAIRER SCOTLAND DUTY (FSD) IMPACT ASSESSMENTS

As a partner in a CRD a public body will need to be able to demonstrate that new or revised policies have been assessed for their impact on equality. Similarly public bodies will also need to show how they have considered the Fairer Scotland duty. The assessment could be conducted by the body itself as the partner in this area of activity, or by co-working on a partner's assessment as long as it addresses the body's own plans. We believe that it makes sense to conduct both EIA and FSD assessments together if possible. Decisions which impact on people with protected characteristics are equally likely to impact on people experiencing socio economic disadvantage, and vice versa¹.

Conducting both assessments together allows you to critically analyse the data you hold on both deprivation and protected characteristics in order to develop a more nuanced and reflective assessment.

As with the PSED, we encourage public bodies to view FSD considerations as being as much about improving people's lives (advancing equality of opportunity for all) as it is about preventing harm (not discriminating).

¹ See <https://www.gov.scot/publications/fairer-scotland-duty-interim-guidance-public-bodies/> for further guidance

A good EQIA and/or FSD Impact Assessment should be proportionate, comprehensive, evidence led, rigorous, relevant, and open about issues and aim to identify mitigations.

Some key advice would be to:

- *Start your impact assessment early*
- *Identify evidence gaps ahead of the analysis*
- *Find ways to fill these evidence gaps using consultation*
- *Commission research or data*
- *Use comparable external experiences from a similar area.*

Your assessment must address all three elements of the duty.

With regards specifically to advancing equality of opportunity and undertaking impact assessments, you should consider if the policy:

- *Helps you to remove or minimise disadvantage?*
- *Meets the needs of different groups?*
- *Encourages increased participation of particular groups?*
- *Takes account of disabled people's requirements*

Further guidance on EQIAs and FSD impact assessments is available here:

<http://www.improvementservice.org.uk/fairer-scotland-duty.html>

<https://www.equalityhumanrights.com/en/advice-and-guidance/guidance-scottish-public-authorities>

SETTING ROBUST EQUALITY OUTCOMES

Partners to a CRD should set robust investment-specific equality outcomes to maximise its chances of delivering Inclusive Growth for the benefit of all groups of people in the regional economy. As above the duty falls on individual partners covered by the relevant duty but this can be just as easily conducted collectively by all partners, or by one on behalf of the others.

An **equality outcome** is a result which your CRD aims to achieve to further one or more of the needs in the general equality duty: eliminate discrimination, advance equality of opportunity and/or foster good relations.

Equality outcomes should not be confused with **outputs**.

Outputs are what gets done, what an organisation or service produces or delivers, such as training events or an improved evidence base.

Outcomes are the changes that result for individuals, communities, organisations or society as a consequence of the actions taken. Outcomes can include short-term benefits such as improved service delivery or service uptake, or changes in knowledge, skills and attitudes, as well as longer-term benefits such as changes in behaviours, decision-making, or social and environmental conditions.

The success of CRDs can be measured by the extent to which they increase employment opportunities and access to the economic benefits of the investment for your most deprived communities, women, disabled people and ethnic minorities. As evidence shows women are often clustered in middle management in some sectors or poorly represented in others (for example engineering, digital, and bio-science). Ethnic minorities in Scotland are twice as likely to live in poverty and unemployment. Disabled people not only also face higher levels of unemployment but also experience higher household costs.²

² See the Scottish Governments Equality Evidence Finder [here](#)

Your investment-specific equality outcomes should be **SMART** - **Specific**, **Measurable**, **Achievable**, **Realistic**, and **Time-bound**.

This means asking questions such as:

- ⇒ **S** - *who benefits, and in what way?*
- ⇒ **M** - *how many will benefit, where will the benefit be seen?*
- ⇒ **A** - *is this under or over stretching?*
- ⇒ **R** - *is your equality outcome focused on the problem you want to change?*
- ⇒ **T** - *have you set a period by which you wish to see the change achieved?*

Examples of an **investment-specific equality outcome** might be:

- *Increasing women's employment in construction in Greater Glasgow by 5%, by 2022.*
- *Increasing disabled peoples' use of leisure facilities in Highland by 3% by 2022.*
- *Increasing ethnic minority young people's take up of higher skilled apprenticeships across Aberdeen and Aberdeenshire by 2% by 2022.*

The **CRD areas** you may wish to cover in setting your equalities outcomes could be:

- *Employment*
- *Income*
- *Access to services*
- *Housing*
- *Education, skills and training*

The EHRC has more detailed guidance on the setting of equality outcomes and the specific equality duty for public authorities in Scotland.

CONCLUSION

Whilst there remain serious challenges to those CRD partners charged with delivering on the Inclusive Growth agenda, there are important opportunities for advancing a more equal, diverse, inclusive and fair Scotland which must not be wasted. CRD partners will offer themselves the best opportunity of delivering a more inclusive, diverse and sustainable economy if they set robust regional equality outcomes which are specific, measurable, realistic and time-bound.

For further information and support contact **Chris Oswald** at chris.oswald@gov.scot.