

# REPORT

## EIJB Consultation Response – Fairer Scotland Duty Guidance

Edinburgh Integration Joint Board

22 June 2021

<b>Executive Summary</b>	The purpose of this report is to update the Edinburgh Integration Joint Board (EIJB) on the consultation response on the Fairer Scotland Duty Guidance
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<b>Recommendations</b>	<p>It is recommended that the Edinburgh Integration Joint Board:</p> <ol style="list-style-type: none"> <li>Note the EIJB consultation response which has been approved and submitted by the Chief Officer in line with the agreed consultation protocol.</li> </ol>
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### Directions

Direction to City of Edinburgh Council, NHS Lothian or both organisations	No direction required	✓
	Issue a direction to City of Edinburgh Council	
	Issue a direction to NHS Lothian	
	Issue a direction to City of Edinburgh Council and NHS Lothian	

### Report Circulation

- This report has not been circulated to any other governance committee prior to submission to the EIJB.

### Main Report

- The Scottish Government published interim guidance for Public Bodies in March 2018 that outlines that the Fairer Scotland Duty is subject to a three-year implementation phase. Therefore, finalised guidance has now been drafted, reflecting learning and practice since 2018.

3. The two main changes in the finalised guidance, include the addition of new public bodies that have been established since 2018 and further examples of what constitutes a strategic decision.
4. The Scottish Government requested views on the revised Fairer Scotland Duty: guidance for Public Bodies. The consultation opened on the 24 March 2021 and closed on 7 May 2021.
5. It was determined that the response would have a small impact on the business of the EIJB. In line with the consultation protocol agreed at the EIJB on 27 May 2021, the consultation response was signed off by the Chief Officer in consultation with the Chair and Vice Chair. The finalised version of the consultation response is included at appendix 1 for awareness and submitted to Scottish Government on the 7 May 2021.

## **Implications for Edinburgh Integration Joint Board**

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### **Financial**

6. There are no financial implications arising from this report.

### **Legal / risk implications**

7. There are no legal or risk implications arising from this report.

### **Equality and integrated impact assessment**

8. There are no equality or integrated impact assessments required as a result of the information contained within this report.

### **Environment and sustainability impacts**

9. There are no environment or sustainability impacts arising from this report.

### **Quality of care**

10. There are no quality of care issues arising from this report.

## **Consultation**

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11. Key stakeholders have been involved in the development of the consultation response.

## Report Author

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## Background Reports

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None

## Appendices

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Appendix 1      Fairer Scotland Duty Consultation Response

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RESPONSE DOCUMENT

**INTRODUCTION**

Please use this document to submit your response to the Scottish Government.

This document brings together all of the questions proposed in the 'Fairer Scotland Duty: Paper for Stakeholders' into one document. Each header represents a section in the stakeholder paper related to a proposed change or addition to the guidance.

As per the covering email, this document should be returned by Friday 7 May 2021.

**Please send your replies to:** [sjsu@gov.scot](mailto:sjsu@gov.scot)

**QUESTIONS**

**1. Two new public bodies added to the list of bodies covered by the Duty: Scottish National Investment Bank and South of Scotland Enterprise**

- Are there any other new public bodies that you think should be covered by the Duty?

No

- If you answered yes to the question above, please name them and outline why you think they should be covered by the Duty.

N/a

**2. Further examples of what constitutes a 'strategic' decision**

- Could the definition of a 'strategic decision' be clearer?

The definition of a 'strategic decision' is helpful and provides guidance to individuals in what circumstances a Fairer Scotland Duty (FSD) assessment should be undertaken.

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- If you answered yes to the question above, please tell us why and how you think it could be improved?

N/a

- Do you consider all the types of decisions listed to be strategic in nature?

No

- If you answered no to the question above, please tell us which one(s) you think are NOT strategic and why?

- Although Community Benefit Clauses can help reduce socio-economic disadvantage, I don't think a community benefit clause is strategic – a Community Benefit Strategy may however be strategic
- Disinvestment – at any level. This may have impacts on socio-economic disadvantage however I would not say that all disinvestment is necessarily strategic
- Commissioning and decommissioning of service. A strategy around these could be classified as strategic however I do not feel that all commissioning nor decommissioning of services are strategic
- Not clear what – “During service redesign/ transformation and within project management processes”, mean

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- Are there other types of decision that you think should be included here?

Yes

- If you answered yes to the question above, please tell us what they are and why you think they should be included?

Sustainable/Environmental/Climate Change Strategies

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**3. New section: 'organisational readiness'**

- Do you think that the new section on organisational readiness is useful?

Yes

- If you answered no to the question above, please tell us why, and how it might be improved?

Agree that positive buy-in from senior managers etc is important. Is Scottish Government proposing to take any steps to improve leadership/awareness at senior level and achieving positive buy-in from senior managers etc?

The Awareness Raising section refers to director/chief executive however the Leadership section does not. Director/chief executive should be included in both.

Accessing the training tools etc on the Knowledge Hub is not the easiest – the group is a closed group and so immediate access is not always possible.

It is not clear what a "Fairer Scotland Duty Framework" consists of – I do not think there has been mention of this elsewhere in the guidance – could a good example be provided?

- Are there any other components that you think should be included in this section?

No

- If you answered yes to the question above, please tell us what they are and why you think they are critical to successful delivery of the Duty?

N/a

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- Are there any components that you think should be removed from this section?

No

- If you answered yes to the question above, please tell us what they are and why you think they should be removed?

N/a

**4. Demonstrating 'due regard'**

- Do you think that the six questions listed above are helpful when considering 'due regard'?

Yes

- If you answered no to the question above, please tell us why and how they might be made more helpful?

N/a

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- Are there any other questions that you think it would be helpful to include here?

Yes

- If you answered yes to the question above, please tell us what they are and why you think they should be included?

VI – How could the proposal/decision be improved so it **reduces or further reduces** inequalities of outcome?

- Do you think any of the six questions should be removed from this section?

No

- If you answered yes to the question above, please tell us what question(s) and why you think it should be removed?

N/a

**5. Two new templates: Evaluation tool to help bodies demonstrate they have met the Duty and Assessment Not Required Declaration Template**

**Evaluation Tool**

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- Do you think that the Evaluation Tool is useful?

No - It could be but is too lengthy, and onerous in its current form.

- If you answered no to the question above, please tell us why?

The purpose of the Evaluation Tool is slightly ambiguous – is it a quality assurance tool or the FSD assessment? If it is a quality assurance tool, perhaps this would be a better name.

If it is a QA tool, consideration needs to be given to the length of it. As it stands, it would be a significant time commitment for staff to undertake the QA tool alongside the FSD assessment. It also involves a lot of duplication of the FSD assessment. Staff capacity would be an issue.

- Are there any other questions or text that it would be helpful to include here?

Yes

- If you answered yes, please tell us what the questions and/or text are and why you think they should be included?

If this is expected to be completed for every FSD assessment, then there should be reference to it in the Guidance document – it is first mentioned in the Appendix. The Evaluation tool is not included in any of the key stages.

A completed example would be useful.

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- Is there anything that you think should be removed from the Evaluation Tool?

Yes

- If you answered yes to the question above, please tell us what that is and why it should be removed?

I am not clear what the “please provide evidence/ positive examples” is actually requesting in some of the sections.

**Assessment Not Required Declaration Template**

- Do you think that the Assessment Not Required Declaration Template would be useful?

Yes

- If you answered no to the question above, please tell us why?

- Is there any other information that is would be helpful to include or ask for here?

No

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- If you answered yes to the question above, please tell us what that information is and why you think it should be included?

N/a

- Is there anything that you think should be removed from the Template?

No

- If you answered yes to the question above, please tell us what that is and why it should be removed?

N/a

**6. Data sources section updated**

- Are the groupings and evidence identified helpful?

Yes – they could prove useful

- If you answered no to the question above, please tell us why?

N/a

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- Are you aware of any other data sources that should be included?

No

- If you answered yes to the question above, please tell us what that data source is and why you think it should be included.

N/a

**7. New case studies**

- Are the new case studies useful?

Yes, but could be improved

- Please tell us why you think this?

I think that it would be of more use if the actual assessments were provided rather than case studies

- Do you have a case study that could be included in the guidance?

No

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- If you answered yes to the question above, please send us a brief overview of the case study.

N/a

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**Any other comments?**

- How do you think the revisions to the Guidance will influence assessments produced under the Fairer Scotland Duty?

I don't think the revisions will influence assessments as, although the new guidance aims to provide clarity, there is no material change to the guidance nor to the requirements of the FSD

- Do you have any other general views or comments on the revised guidance?

I do not feel that the Guidance flows very well and could lead to confusion, for example the section on *Preparing to meet the Duty* outlines what you should do in order to meet the FSD and then there is a further section on *Meeting the Duty Day to Day* which covers what was said in the previous section but in a different way.

The section on Due Regard covers what should be considered in an assessment – could the whole document be simplified down to these basics?

Page numbers and date of document should be put on the document

It should be noted in the document that assessments should be proportionate

The 2010 Act specifies that in deciding how to fulfil the Duty, a body must take **into account any guidance issued.**'

However the Guidance states that "The Scottish Government continues to encourage innovation in how public bodies meet the Duty and welcomes different approaches." This may lead to confusion as to whether you must follow the guidance or not?

Further clarity is required whether the templates provided (e.g., assessment tool and assessment not required tool) are guidance tools for organisations to use as appropriate, or do they need to be implemented.

Contractions such as "can't" should not be used.

Would prefer 'Fairer Scotland Duty' to be abbreviated to 'the FSD' rather than 'the Duty' to differentiate from equality duty.

The Guidance abbreviates Public Sector equality Duty to PSED and therefore it would be consistent to abbreviate Fairer Scotland Duty to FSD.