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Regulatory Impact Assessment

A More Equal Wales – Commencing the Socio-economic Duty

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Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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A MORE EQUAL WALES – COMMENCING THE SOCIO-ECONOMIC DUTY

INTRODUCTION

This is the draft Regulatory Impact Assessment (“RIA”) on the commencement of the socio-economic duty (“the duty”). This supports the accompanying consultation document, and sets out the potential benefits and costs of commencing the duty. These have been based on a series of ‘reasonable’ assumptions for a set period of time.

The RIA presents a best estimate of the costs and benefits of the duty based upon the available evidence. The analysis has been informed by engagement with key stakeholders including the Equality and Human Rights Commission. Nevertheless, it has been necessary to make a series of assumptions in order to complete the calculations. Any assumptions made are explained in the narrative.

The assessment of costs and benefits are centred on the three year period 2019/20 to 2021/22 (the duty is due to be commenced on 1 April 2020). A three year appraisal period has been chosen, since the costs and benefits of the duty are expected to reach a steady state quickly following an ‘interim period’ of 2020/21 to 2021/22. Costs have been rounded to the nearest £100, some table totals may not sum due to this rounding.

An impact assessment was carried out in support of the Equality Act 2010¹ (“the 2010 Act”) by the UK Government. This includes consideration of the impact of the socio-economic duty². This information has been used to inform the production of this document to reflect inflation, the Welsh context, and advancements in the subsequent nine years since the Act’s introduction.

¹ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

² https://webarchive.nationalarchives.gov.uk/20100610085549/http://www.equalities.gov.uk/equality_bill.aspx

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OPTIONS

Two options have been identified and explored:

Option 1: Do nothing - retain the status quo; and

Option 2: Commence the duty requiring relevant public bodies, when making strategic decisions such as 'deciding priorities and setting objectives', to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage.

OPTION 1: DO NOTHING – RETAIN THE STATUS QUO

Description

This option would mean continuing as is i.e. not commencing Part 1, Section 1 of the the 2010 Act¹ in Wales. It would see existing policies and measures being the only driving force to help reduce socio-economic disadvantage.

In Wales there is existing legislation which supports public bodies in reducing inequalities and addressing socio-economic inequality and disadvantage, this includes the Well-being of Future Generations (Wales) Act 2015³, The 2010 Act - Public Sector Equality Duty⁴, The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011⁵, the Rights of Children and Young Persons (Wales) Measure 2011⁶ and the Human Rights Act 1998⁷.

Costs

Although no legislative framework changes are proposed by this option, there are potential impacts and costs associated with retaining the status quo if socio-economic inequality is not tackled effectively.

After his visit to the UK in November 2018 Professor Philip Alston, the United Nations Special Rapporteur on Extreme Poverty and Human Rights, stated:

*"We know only too well that levels of poverty across Wales and the rest of the UK are shocking, and getting worse, and that the responsibility for this rests squarely with the UK Government and its austerity and welfare reform policies"*⁸.

Analysis undertaken by Landman Economics and Aubergine Analysis on behalf of the Equality & Human Rights Commission (EHRC)⁹ which was published in March 2018, summarises findings on the potential impact of UK Government tax and welfare reforms announced between May 2010 and January 2018. This analysis estimates that relative child poverty (after housing costs) in Wales will increase substantially, with the reforms pushing an extra 50,000 children into poverty by 2021-22 (an increase of around 8 percentage points). This analysis also shows that there is a disproportionately negative impact on the incomes of several protected groups, including disabled people, certain

3 <http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

4 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>

5 <http://www.legislation.gov.uk/wsi/2011/1064/contents/made>

6 <http://www.legislation.gov.uk/mwa/2011/2/contents>

7 <http://www.legislation.gov.uk/ukpga/1998/42/contents>

8 <https://mailchi.mp/a56c7225c0e6/newsletter-un-special-rapporteur-on-extreme-poverty-and-human-rights?e=66db48a0fa>

9 J. and Reed, H. (2018) *The cumulative impact of tax and welfare reforms. A report for the Equality and Human Rights Commission*
<https://www.equalityhumanrights.com/en/publication-download/cumulative-impact-tax-and-welfare-reforms>

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ethnic groups, and women, and particularly negative impacts on intersectional groups who experience multiple disadvantages (e.g. lone parents with disabled children).

The Wellbeing of Wales 2019¹⁰ report, which includes analysis of progress we are making against the seven well-being goals, states that:

- nearly a quarter of all people in Wales (24 per cent) were living in relative income poverty (after housing costs) between 2015-16 and 2017-18;
- children are the most likely to be in relative poverty; 29 per cent of children compared to 19 per cent of pensioners;
- over two fifths (42 per cent) of those who are single parents were in material deprivation in 2018-19;
- 3 per cent of households said they had received food from a food bank in the last 12 months; and
- in 2018, an estimated 12 per cent of households were living in fuel poverty (down from 26 per cent of households in 2008).

It is important to recognise that socio-economic disadvantage is not only experienced in those communities typically regarded as deprived. For example, analysis of the Welsh Index of Multiple Deprivation¹¹ shows that while around 20 per cent of income deprived people live in the 10 per cent most deprived areas, this means that around 80 per cent of income deprived people do not.

However living in a deprived area can exacerbate negative outcomes for individuals and households as these areas face significant challenges; and this is particularly the case for deep-rooted deprivation. This is illustrated within the Social mobility in Great Britain - state of the nation 2018 to 2019 report¹² which considers the disparities between those least and most deprived; a lack of social mobility in terms of higher education and career prospects; discrimination faced if individuals have protected characteristics.

The Joseph Rowntree Foundation¹³, on the 8 November 2016, reported that:

“As well as the impact this has on people’s lives and the waste of potential that it represents, it also places significant demands on the Welsh Government’s budget, with public agencies within health, education, social care and the criminal justice systems spending £3.6 billion every year dealing with the social consequences of this high level of poverty. This is equivalent to £1,150 for every person living in Wales, and represents £1 in every £5 of spending on public services. Poverty also brings additional costs from lost tax revenues and costs to the social security system.”

Based on the above evidence, there are potential costs which will continue to be incurred, and potentially increase. However as explained under Option 2, the difference to which these costs will be impacted by commencing the socio-economic duty is unquantifiable.

Benefits

The evidence demonstrates working within the existing legislative and policy framework (i.e. not commencing the socio-economic duty), does not have the desired effect of putting socio-economic disadvantage at the heart of strategic decision-making for relevant public bodies. There is a risk associated with this option, as it would miss the opportunity to reduce the inequalities that result from socio-economic disadvantage.

Doing nothing may provide a minor benefit in comparison to Option 2, in the form of certainty for the relevant public bodies in that the status quo will be maintained.

¹⁰ <https://gov.wales/sites/default/files/statistics-and-research/2019-09/well-being-of-wales-2019-590.pdf>

¹¹ <https://stats.wales.gov.wales/Catalogue/Community-Safety-and-Social-Inclusion/Welsh-Index-of-Multiple-Deprivation>

¹² <https://www.gov.uk/government/publications/social-mobility-in-great-britain-state-of-the-nation-2018-to-2019>

¹³ <https://www.jrf.org.uk/press/poverty-costs-wales-£36-billion-every-year>

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OPTION 2: COMMENCING THE OVERARCHING DUTY REQUIRING WELSH MINISTERS AND RELEVANT PUBLIC BODIES, WHEN MAKING STRATEGIC DECISIONS SUCH AS 'DECIDING PRIORITIES AND SETTING OBJECTIVES', TO CONSIDER HOW THEIR DECISIONS MIGHT HELP TO REDUCE THE INEQUALITIES ASSOCIATED WITH SOCIO-ECONOMIC DISADVANTAGE.

Description

This option would place an overarching duty on the Welsh Ministers and relevant public bodies to consider how their strategic decisions help to reduce the inequalities associated with socio-economic disadvantage.

The new duty arrives from commencing Part 1, Section 1 of the 2010 Act¹. It will require relevant public bodies to exercise their functions in a particular way, to consider how they can improve socio-economic disadvantage on an ongoing basis when they make strategic decisions. Considering socio-economic disadvantage will have to become embedded and an integral part of their strategic decision-making.

In Wales, it is proposed that the following Welsh public authorities ("relevant public bodies") would be bound by the duty, as they appear to meet the test set out in section 2(6) of the 2010 Act **Error! Bookmark not defined.:**

- The Welsh Ministers;
- A Local Authority;
- A Local Health Board;
- An NHS Trust;
- Special Health Authorities (which operate on a Wales only basis);
- A Fire and Rescue Authority;
- A National Park authority; and
- The Welsh Revenue Authority.

Costs

Awareness and training:

From the 1 April 2020, moving relevant public bodies to a position where they are more routinely and actively focusing on reducing socio-economic disadvantage is likely to involve a combination of leadership, cultural and behavioural changes. Therefore to successfully implement the duty, it is anticipated there are two key areas where action is required:

- i. Organisational awareness and understanding; and
- ii. Provision of supporting resources.

Description - the two areas are outlined in turn below:

- i. Organisational awareness and understanding:

To embed a basic level of knowledge and understanding of the duty, and to create a culture where relevant individuals and organisations take strategic decisions with a view to reducing socio-economic disadvantage, a basic level of awareness training will be required – this will be achieved through the delivery of training/ awareness raising events. It is anticipated this training will help relevant public bodies consider what amendments are needed to current working practices to ensure socio-economic disadvantage is a fundamental consideration and embedded within the culture of the organisations. This means ensuring consideration is given to reducing socio-economic disadvantage from the time of making the strategic decision through to the execution.

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We anticipate that the training/ awareness raising events will be held quarterly on an all Wales basis covering North, South and Mid Wales (two events in 2019/20, four events in 2020/21 and 2021/22) for a period of two hours each.

The approximate opportunity staff costs to the Welsh Government to plan and deliver a series of stakeholder events and workshops are included in at Table 1.

Table 1 - Opportunity cost - Welsh Government Staffing for stakeholder events and workshops

Average staff cost per annum*	Estimated time required	Cost 2019/20**	Cost 2020/21	Cost 2021/22
Grade 7	0.05	£600	£1,100	£1,100
Senior Executive Officer (SEO)	0.05	£500	£800	£800
Higher Executive Officer (HEO)	0.05	£300	£700	£700
Venue cost***		£200	£400	£400
Total cost		£1,600	£3,000	£3,000

*Provided by the Welsh Government Central Services & Administration Main Expenditure Group Team based on Average Gross Salary Rates for Non-SCS Pay Bands 2019.

**Estimated for a period of 6 months from October 2019-April 2020.

* This cost is estimated to be £100 per event (two events in 2019/20, four events in 2020/21 and 2021/22).

In regards to venue cost, our expectation is that relevant public sector and Welsh Government premises would be used to deliver the face to face training, which would not incur any additional costs. There may, however, be a cost associated with securing venues to deliver this training if suitable cost-free space is not available and this has therefore been included. The cost is based on the estimated cost of hiring a venue, used in the Regulatory Impact Assessment for the Health and Social Care (Quality and engagement) (Wales) Bill¹⁴ (paragraph 198 refers). This cost is estimated to be £100 per annum.

The total estimated opportunity cost for Welsh Government associated with organisational awareness, over the three year period is £7,600.

There are opportunity costs for relevant public bodies for staff to attend the training, these are estimated on the basis of three members of staff per relevant public body attending the aforementioned training (held quarterly (two events in 2019/20, four events in 2020/21 and 2021/22)). This is estimated to be:

Table 2 - Opportunity cost - Relevant public sector staff attending stakeholder events and workshops

Type of public sector body	Number of bodies to whom the duty will apply	Average (median) earnings in the public sector, 2018*	Cost 2019/20 (four hours)**	Cost 2020/21 (eight hours)**	Cost 2021/22 (eight hours)**	Total opportunity cost 2019/20 – 2021/22
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¹⁴ <http://www.assembly.wales/laid%20documents/pri-ld12572-em/pri-ld12572-em-e.pdf>

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The Welsh Ministers	1	£67,700***	£500	£1,000	£1,000	£2,500
Local Authorities	22	£64,500	£9,600	£19,200	£19,200	£48,000
Local Health Boards	7	£64,500	£3,100	£6,100	£6,100	£15,300
NHS Trusts	3	£64,500	£1,400	£2,700	£2,700	£6,800
Special Health Authorities	1	£64,500	£500	£900	£900	£2,300
Fire and Rescue Authorities	3	£64,500	£1,400	£2,700	£2,700	£6,800
National Park Authorities	3	£64,500	£1,400	£2,700	£2,700	£6,800
The Welsh Revenue Authority	1	£64,500	£500	£900	£900	£2,300
Total	-	-	£18,400	£36,200	£36,200	£90,800

*Based on latest ASHE data¹⁵, the median gross hourly earnings for 'Chief Executives and senior officials' (Occ code 111) in Wales in 2018, 30% uplift has been added to reflect on-costs.

**Based on a total of two events in 2019/20, four events in 2020/21 and 2021/22 for a period of two hours each attended by three staff per relevant public body.

***Based on Determination on Members' Pay and Allowances 2019 — 2020¹⁶, page 13 provides figures on base line pay

ii. Provision of supporting resources:

To support the ongoing implementation of the duty, the Welsh Government will create non-statutory guidance to support relevant public bodies implement the duty. This will be in the form of 'interim' guidance, which will be issued on the 1 April 2020, before being issued as 'final' statutory guidance on the 1 April 2022. The two year period will allow Welsh Government time to work with relevant public bodies to refine the guidance and for relevant public bodies to fully understand the requirements and embed it within existing working practices. This will provide an opportunity for continuous review and on-going engagement to ensure that the duty works as intended in its efforts towards reducing inequalities of outcome linked to socio-economic disadvantage.

Both the 'interim' non-statutory guidance and 'final' statutory guidance will be co-produced between Welsh Government, relevant public body representatives, and other key stakeholders – however as Welsh Government will be the author of the guidance it is estimated that they will incur the greatest cost.

To develop the 'interim' guidance and subsequent 'final' statutory guidance, as well as undertake a period of review and engagement, it is anticipated that work will cover the three year period. For Welsh Government it is anticipated that this will be delivered by three members of staff at an appropriate level - estimated to be at a grade equivalent to a Welsh Government Higher Executive Officer (HEO), Senior Executive Officer (SEO) and a Grade 7. The approximate staff costs to the Welsh Government are estimated to be:

¹⁵ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018>

¹⁶ <http://www.senedd.assembly.wales/documents/s86918/Determination%20on%20Members%20Pay%20and%20Allowances%20-%20April%202019.pdf>

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Table 3 - Opportunity costs - Welsh Government - Staff cost associated with development of guidance

Average staff cost per annum*	Estimated time required	Cost 2019/20**	Cost 2020/21	Cost 2021/22
Grade 7	0.05	£1,100	£2,200	£2,200
Senior Executive Officer (SEO)	0.1	£500	£1,000	£1,000
Higher Executive Officer (HEO)	0.1	£300	£500	£500
Total		£2,000	£3,200	£3,200

*Provided by the Welsh Government Central Services & Administration Main Expenditure Group Team based on Average Gross Salary Rates for Non-SCS Pay Bands 2019 including oncosts.

**Estimated for a period of 6 months from October 2019-April 2020.

For relevant public bodies to work with Welsh Government to co-produce the 'interim' and 'final' guidance, we are anticipating that this will require eight public sector staff (one per relevant public body type) for a period of two hours per quarter. These costs are estimated in Table 4 below:

Table 4 - Opportunity costs – relevant public bodies staff cost associated with development of guidance

Type of public sector body	Number of bodies to whom the duty will apply	Average (median) earnings in the public sector, 2018*	Cost 2019/20 (four hours)**	Cost 2020/21 (eight hours)**	Cost 2021/22 (eight hours)**	Total opportunity cost 2019/20 – 2021/22
The Welsh Ministers	1	£67,700***	£200	£400	£400	£1,000
Local Authorities	22	£64,500	£3,200	£6,400	£6,400	£16,000
Local Health Boards	7	£64,500	£1,100	£2,100	£2,100	£5,300
NHS Trusts	3	£64,500	£500	£900	£900	£700
Special Health Authorities	1	£64,500	£200	£300	£300	£800
Fire and Rescue Authorities	3	£64,500	£500	£900	£900	£2,300
National Park Authorities	3	£64,500	£500	£900	£900	£2,300
The Welsh Revenue Authority	1	£64,500	£200	£300	£300	£800
Total	-		£6,400	£12,200	£12,200	£29,200

*Based on latest ASHE data¹⁷, the median gross hourly earnings for 'Chief Executives and senior officials' (Occ code 111) in Wales in 2018, 30% uplift has been added to reflect on-costs.

**Estimated for a period of 6 months from October 2019-April 2020.

***Based on Determination on Members' Pay and Allowances 2019 – 2020¹⁸, page 13 provides figures on base line pay

¹⁷ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018>

¹⁸ <http://www.senedd.assembly.wales/documents/s86918/Determination%20on%20Members%20Pay%20and%20Allowances%20-%20April%202019.pdf>

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In addition to the table above (Table 3), there is an opportunity cost for Welsh Government in the development of guidance in terms of translation and design.

Table 5 - Opportunity cost - Welsh Government staff time for the development of guidance, review and engagement 2019/20

Activity	Annual average staff cost per annum	Time	Cost
Opportunity cost - Translation of the Guidance*	Higher Executive Officer (HEO)	8 days	£1,400
Opportunity cost - Translation of the Guidance*	Higher Executive Officer (HEO)	4 days	£700
Opportunity cost - Translation and proofreading*	Higher Executive Officer (HEO)	15 days	£2,600
Opportunity cost - Design and typesetting*	Executive Officer (EO)	4 days	£500
Total			£8,200

*costs have been calculated based on the RIA in the Engagement and Quality Bill which costed which costed guidance based on 25,000 number of words¹⁹ (please see para 203).

There would be no costs associated with the distribution of the guidance as only electronic versions would be available on the Welsh Government website.

Implementation:

The original impact assessment, undertaken by the UK Government in support of the Equality Act, states that:

“It is difficult to estimate the cost of legislation, it is taken to be the time required for authorities to familiarise themselves with it, and the time taken on an on-going basis to ensure that appropriate data feeds into the relevant decision-making processes. It is assumed that the first element will, on average, take a senior official (or equivalent) three days (21 hours), including half a day to familiarise themselves with the legislation and then a further two and a half days to integrate consideration of socioeconomic disadvantage into the policy process where this is not already the case. It is assumed that the second element will take a senior official or analyst one day’s work each year.

The assumption that compliance will take 21 hours initially and 7 hours on an on-going basis is the main limitation on the accuracy of this impact assessment. It is not known how long it will take authorities to familiarise themselves with the duty and to adjust their policy processes to accord with it.”

The Welsh Government feels this is a fair assessment, however would add a further difficulty in estimating a cost is the number of strategic decisions relevant public bodies will undertake per annum may vary between public sectors i.e. a local authority or local health board may make significantly more strategic decisions per annum compared to a national park authority or fire and

¹⁹ <http://www.assembly.wales/laid%20documents/pri-ld12572-em/pri-ld12572-em-e.pdf>

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rescue service due to the complexity of these bodies. We therefore believe the analysis and costs used in the original RIA still stand with the exception of uprating for inflation the hourly salary for an average public sector worker. The revised opportunity costs for public sector bodies is costed below:

Table 6 - Opportunity cost – Relevant public sector staff time associated with implementation

Type of public sector body	For each body to whom the duty will apply	Average (median) earnings in the public sector, 2018*	Cost 2019/20 (21 hours)**	Cost 2020/21 (seven hours)	Cost 2021/22 (seven hours)	Total opportunity cost 2019/20 – 2021/22
The Welsh Ministers****	1	£67,700***	£800	£300	£300	£1,400
Local Authorities	1	£64,500	£800	£300	£300	£1,400
Local Health Boards	1	£64,500	£800	£300	£300	£1,400
NHS Trusts	1	£64,500	£800	£300	£300	£1,400
Special Health Authorities	1	£64,500	£800	£300	£300	£1,400
Fire and Rescue Authorities	1	£64,500	£800	£300	£300	£1,400
National Park Authorities	1	£64,500	£800	£300	£300	£1,400
The Welsh Revenue Authority	1	£64,500	£800	£300	£300	£1,400
Total	-		£6,400	£2,400	£2,400	£11,200

*Based on latest ASHE data²⁰, the median gross hourly earnings for 'Chief Executives and senior officials' (Occ code 111) in Wales in 2018, 30% uplift has been added to reflect on-costs.

**21 hours plus 3.5 hours (7 hours pro rata)

***Based on Determination on Members' Pay and Allowances 2019 – 2020²¹, page 13 provides figures on base line pay.

****We recognise that there is an opportunity cost for Welsh Government in supporting Welsh Ministers discharge their duty however this has been difficult to calculate and to provide an estimate at this stage may be misleading. We will therefore consider this further and include a cost post consultation as part of the final RIA.

Reporting:

There is no reporting duty attached to this piece of legislation. Relevant public bodies will need to demonstrate how they have fulfilled their legal obligations when making strategic decisions. The guidance which will be issued by Welsh Ministers will encourage relevant public bodies to detail how they are discharging their duty by using their existing monitoring and reporting mechanisms where appropriate. On this basis, we follow the assumptions made in the UK Government's impact assessment, as presented above; therefore, it is estimated that it will take one individual from each relevant public body one hour per annum to undertake this task. The cost of this is estimated within table 7:

Table 7 - Opportunity cost – Relevant public sector staff time associated with reporting

Type of public sector body	For each body to whom the duty will apply	Average (median) earnings in the public sector, 2018*	Cost 2019/20 (0.5 hour)**	Cost 2020/21 (one hour)	Cost 2021/22 (one hour)	Total opportunity cost 2019/20 – 2021/22

20 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018>

21 <http://www.senedd.assembly.wales/documents/s86918/Determination%20on%20Members%20Pay%20and%20Allowances%20-%20April%202019.pdf>

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The Welsh Ministers	1	£67,700***	£19	£38	£38	£100
Local Authorities	22	£64,500	£400	£800	£800	£2,000
Local Health Boards	7	£64,500	£200	£300	£300	£800
NHS Trusts	3	£64,500	£100	£200	£200	£500
Special Health Authorities	1	£64,500	£18	£36	£36	£100
Fire and Rescue Authorities	3	£64,500	£100	£200	£200	£500
National Park Authorities	3	£64,500	£100	£200	£200	£500
The Welsh Revenue Authority	1	£64,500	£18	£36	£36	£100
Total	-	-	£1,000	£2,000	£2,000	£5,000

*Based on latest ASHE data²², the median gross hourly earnings for 'Chief Executives and senior officials' (Occ code 111) in Wales in 2018, 30% uplift has been added to reflect on-costs.

**Estimated for a period of 6 months from October 2019-April 2020.

***Based on Determination on Members' Pay and Allowances 2019 — 2020²³, page 13 provides figures on base line pay.

In addition to the above, there will be costs associated with the presentation of data to enable relevant public bodies to undertake an analysis of socio-economic disadvantage. However, Welsh Government anticipates that to assist relevant public bodies this data can be drawn from a range of existing resources such as:

- National well-being indicators²⁴;
- Annual employment data published under the Public Sector Equality Duty²⁵;
- The Equality and Human Rights Commission's annual report 'Is Wales Fairer'²⁶;
- Welsh Government's Future Trends report²⁷;
- A wide range of other official statistics via StatsWales²⁸ and the Office for National Statistics²⁹.

As these materials will continue to be routinely published, there are no costs associated directly with this element of commencing the duty. The costs associated with the analysis of this data by relevant public bodies are included within the implementation costs outlined in Table 6.

Legal costs:

By commencing the duty, it could be suggested this option creates a further "hook" for legal challenges to decisions on the grounds they do not comply with the duty i.e. if a relevant public body fails to perform the duty, an individual or group whose interests are

22 <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018>

23 <http://www.senedd.assembly.wales/documents/s86918/Determination%20on%20Members%20Pay%20and%20Allowances%20-%20April%202019.pdf>

24 <https://gov.wales/well-being-wales-progress-reports-against-well-being-goals>

25 <https://stats.wales.gov.wales/Catalogue/Equality-and-Diversity/Public-Sector-Equality-Duty>

26 <https://www.equalityhumanrights.com/en/publication-download/wales-fairer-2018>

27 <https://gov.wales/future-trends-2017>

28 <https://stats.wales.gov.wales/Catalogue>

29 <https://www.ons.gov.uk/>

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adversely affected by that public body's decision, may be able to bring a judicial review claim against that authority.

While failure to comply with the duty can be challenged in the courts it is considered unlikely the duty will amount to an entitlement to an individual receiving a particular service. For example, it was determined in the case of *R (Dyer) v Welsh Ministers* [2015] EWHC 3712 the statutory regime (the National Health Service (Wales) Act 2006)³⁰ was not suitable to create an individual entitlement to service provision and that no public law duties had been breached in relation to collating data as to service provision or in making service provision decisions. Therefore, while the potential costs associated with possible challenges by judicial reviews could be significant if they were to materialise, the likelihood of this is considered to be minimal. These costs are unquantifiable as even if a judicial review challenge were to be brought, the costs of judicial reviews vary significantly and therefore this cost is unknown at this stage.

Outcomes:

Option 1 identifies costs associated with not commencing the socio-economic duty. However, Welsh Government is unable to provide a cost of what, if any savings, will occur as a result of commencing the duty. This is because as explained within Option 1 the factors which influence socio-economic disadvantage are complex and are often an interlinked cycle. In addition the duty will only apply to a limited number of public bodies potentially minimising a system wide change. Therefore, the costs associated with any potential savings are deemed unquantifiable and therefore an estimate has not been provided as it would be so broad it would not provide value and would be misleading.

Equality and Human Rights Commission's (EHRC)

The socio-economic duty is related to the Commission's responsibility under section 8 of the Equality Act 2006, in particular the obligation under section 8(1)(e) to enforce the Equality Act 2010. The Commission's duties under section 11 of the Equality Act 2006 to monitor the law and under section 12 of the Equality Act 2006 to monitor progress are also relevant to the socio-economic duty. The Commission's general powers set out under section 13 to 17 of the Equality Act 2006 would apply to the socio-economic duty, including providing information and advice, research, codes of practice and inquiries.

In its role as the regulator of the Equality Act 2010, the Equality and Human Rights Commission will promote and provide advice and guidance on implementing the socio-economic duty in Wales. There are opportunity costs for the Commission in deploying their existing staff to undertake this work. These costs have been calculated based on their potential activities and existing staff salaries for staff at an appropriate grade, these are estimated to be £80,200 per annum. As per other areas of its work, the Commission will prioritise its work programme based on intelligence, and therefore these costs are subject to variation.

Summary of costs:

The costs set out for development and delivery of a public awareness campaign, training for staff, and development, distribution and review of statutory guidance are summarised in the tables below:

Table 8 – Summary of costs

	2019-20	2020-21	2021-22
Welsh Government (tables 1, 3 and 5)	£11,800	£6,200	£6,200

30 *R (Dyer) v Welsh Ministers* [2015] EWHC 3712 (Admin), [2015] MHLO 109 - Mental Health Law Online [Internet]. Mentalhealthlaw.co.uk. 2017 [cited 2 April 2019]. Available from: [http://www.mentalhealthlaw.co.uk/R_\(Dyer\)_v_Welsh_Ministers_\(2015\)_EWHC_3712_\(Admin\),_\(2015\)_MHLO_109](http://www.mentalhealthlaw.co.uk/R_(Dyer)_v_Welsh_Ministers_(2015)_EWHC_3712_(Admin),_(2015)_MHLO_109)

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Welsh Ministers (tables 2, 4,6 and 7)	£1,600	£1,800	£1,800
Local Authorities (tables 2, 4, 6 and 7)	£14,000	£27,000	£27,000
Local Health Boards (tables 2, 4, 6 and 7)	£5,200	£9,000	£9,000
NHS Trusts (tables 2, 4, 6 and 7)	£2,800	£4,100	£4,100
Special Health Authorities (tables 2, 4, 6 and 7)	£1,600	£1,600	£1,600
Fire and Rescue Authorities (tables 2, 4, 6 and 7)	£2,800	£4,100	£4,100
National Park Authorities (tables 2, 4, 6 and 7)	£2,800	£4,100	£4,100
The Welsh Revenue Authority (tables 2, 4, 6 and 7)	£1,600	£1,600	£1,600
EHRC	£40,100	£80,200	£80,200
Total	£85,000	£140,000	£140,000

Benefits

Welsh Government

The Welsh Government is committed to developing a distinct approach to strengthen Equality and Human Rights in Wales, in part to ensure that exit from the European Union does not result in any regression in this area.

The First Minister made a commitment in his election manifesto to commence the socio-economic duty, and on 11 June 2019, the Deputy Minister and Chief Whip gave an oral statement to Plenary regarding Advancing Equality and Human Rights in Wales. The statement, said that to demonstrate and reaffirm Welsh Government's commitment to the principles of advancing Equality and Human Rights in Wales, Welsh Government would be taking forward work to explore options to safeguard equality and human rights in Wales. This work would begin with commencing the socio-economic duty in Wales, as well as working with the Equality and Human Rights Commission to review and strengthen the Welsh regulations for the Public Sector Equality Duty.

Commencing the duty therefore enables Welsh Government to meet these important policy objectives.

There is an indisputable link between inequality and socio-economic disadvantage. In Wales, action to enable people to fulfil their potential no matter what their socio-economic background and circumstances has been strengthened through the Well-being of Future Generations (Wales) Act 2015³¹. This brings the challenge of intergenerational socio-economic disadvantage into a comprehensive framework for decision making in 44 public bodies in Wales. It provides for a single principle ('the sustainable development principle') to guide the exercise of functions of public bodies to consider how they are meeting the needs of current generations without compromising future generations, to better address long term challenges such as inequalities of outcome. The Well-being of Future Generations (Wales) Act 2015^{Error! Bookmark not defined.} therefore supports existing legislation that seeks to improve equality in Wales, including the Equality Act 2010^{Error! Bookmark not defined.} (and Welsh specific equality duties).

³¹ <http://www.legislation.gov.uk/anaw/2015/2/contents/enacted>

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The Wales we want to see, with social, environmental, economic and cultural well-being at its heart, is articulated in the Act's seven well-being goals – they provide a common purpose for public bodies and others in Wales. The well-being goals are an integrated set – it will not be possible to achieve a healthier, more prosperous, more resilient, globally responsible Wales, with cohesive communities and vibrant culture and Welsh language, without having a more equal Wales. The duty to involve people that reflect the diversity of the area in which a public body serves supports the involvement duty in the Welsh Public Sector Equality Duties.

Commencing the duty will further build on the foundation of the Well-being of Future Generations (Wales) Act 2015, providing an opportunity to do things differently, putting tackling inequality at the heart of strategic decision-making for relevant public bodies. This will ultimately build on the good work that relevant public bodies are already doing to tackle inequality, which links to plans to strengthen our social partnership arrangements. Both the socio-economic duty and the potential Social Partnership Bill will help to address inequality, from different perspectives.

Commencing the duty will also support the Public Sector Equality Duty **Error! Bookmark not defined.** to bring together and again strengthen the existing equality duties in regard to race, gender, and disability, and extends that protection to people on the grounds of age, sexual orientation, gender reassignment, pregnancy and maternity, and religion or belief. Given the clear links between socio-economic inequalities and those associated with particular protected characteristics, the two duties reinforce and support each other allowing for relevant public bodies to consider adopting similar process when considering the impact of their decisions.

Finally, commencing the duty also responds to calls for action from a range of stakeholders including the Equality and Human Rights Commission, Disability Wales, the Older People's Commissioner and the Welsh Civil Society Human Rights Stakeholder Group.

Relevant public bodies

Fundamentally, commencing the duty will require relevant public bodies to focus on reducing socio-economic inequalities when they make strategic decisions. This greater focus will help reduce socio-economic disadvantage which will have a positive impact on the services they and other public sector partners provide i.e. as health outcomes get progressively poorer across the socio-economic gradient³², therefore reducing socio-economic disadvantage will help achieve greater health outcomes reducing demand for health care services. This shared contribution improves understanding of where a relevant public body's impact may overlap with those of other organisations, recognising that public sector delivery is more than the sum of its parts, fostering collaborative arrangements.

The duty places socio-economic disadvantage at the heart of strategic decision making for relevant public bodies in Wales. This will provide for improved, more integrated decision-making, as evidence on socio-economic disadvantage is considered alongside wider equality issues, and further strengthen the way in which relevant public bodies work in line with the five ways of working identified within the Well-being of Future Generations (Wales) Act 2015 **Error! Bookmark not defined.** i.e. the duty will support long-term improvements and prevention, should help drive a more collaborative and integrated approach, and involvement of people and communities. This contributes to improved risk management, as relevant public bodies will better identify the long-term risks that may emerge to the delivery of public services from the perspective of socio-economic disadvantage.

The socio-economic duty will help those public bodies subject to it and the Well-being of Future Generations Act duties in meeting their well-being objectives and, in doing so, contributing to achieving the well-being goals.

³² <http://www.publichealthwalesobservatory.wales.nhs.uk/inequalities-and-inequities>

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For relevant public bodies, routinely demonstrating how they have fulfilled their duty will lead them to act in more open and transparent manner, leading to better performance and better relationships with stakeholders and partner organisations.

It is recognised that the extent to which these benefits will be realised will vary and will depend on the maturity of an organisation in terms how far long its journey it may be in acting the manner required under the duty.

Individuals

In its statutory guidance, the Welsh Government will seek to define which 'socio-economic inequalities' are important to Wales by linking this to existing measures of inequality such the National Well-being Indicators laid by Welsh Ministers under the Well-being of Future Generations (Wales) Act 2015 which are relevant to inequalities, Well-being of Wales report and Is Wales Fairer. Commencing the duty will therefore ultimately lead to public bodies focusing on reducing these inequalities and to better outcomes for those experiencing socio-economic disadvantage.

SUMMARY AND PREFERRED OPTION

Option 1 proposes no change to the current way of working, with any improvement in the consideration to the impact of socio-economic inequalities being driven via existing legislation, policies and measures. There is no reason to believe continuing in this way would reduce socio-economic disadvantage, and in fact the evidence referred to in Option 1 shows relative child poverty in Wales is projected to rise with the UK Government's tax and welfare reforms estimated to push an extra 50,000 children into poverty by 2021-22 (an increase of around 8 percentage points). There is therefore a risk associated with this option, as maintain the status quo would miss the opportunity to reduce the inequalities that result from socio-economic disadvantage.

Option 2 creates a new overarching duty requiring relevant public bodies, when making strategic decisions such as 'deciding priorities and setting objectives', to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage. This option offers the best way forward to successfully embedding the socio-economic duty principle in how public bodies improve long-term well-being. It will help ensure that different public bodies work better together towards a common goal, providing clarity as to what socio-economic disadvantage in Wales looks like, and enabling positive action to move Wales faster on its journey to strengthen Equality and Human Rights in Wales. It will also benefit the citizens of Wales by providing a place to live where everyone has an opportunity to prosper and thrive, no matter who they are or where they come from.

Although un-quantified, these benefits are considered to be sufficient to justify the additional cost associated with option 2.