

# UK Equality Bill – socio-economic duty

## Submission to the Scottish Government

26<sup>th</sup> October 2009

Equality Network, 30 Bernard St, Edinburgh, EH6 6PR

Tel: 07020 933 952

[en@equality-network.org](mailto:en@equality-network.org)

[www.equality-network.org](http://www.equality-network.org)

The Equality Network is a network of around one thousand lesbian, gay, bisexual and transgender (LGBT) individuals and organisations in Scotland, working for LGBT equality.

We welcome the opportunity to submit a brief response to the Scottish Government's consultation on the potential of extending the socio-economic duty within the UK Equality Bill, to cover devolved public authorities in Scotland. Our response effectively covers question 1 in the consultation document only.

The Equality Network agrees that the socio-economic duty, in clauses 1 to 3 of the Equality Bill, should be extended to cover devolved public authorities in Scotland. While we recognise the emphasis already placed by the Scottish Government on tackling inequality, we think that this new statutory obligation on public authorities would underpin and encourage that work, and ensure that public authorities maintain a focus on the issue, for the long term.

However, we think that it would be important, in drafting the Scottish socio-economic duty provisions for the Equality Bill, to recognise the extent of devolved powers in Scotland, and to allow sufficient flexibility for Scottish Ministers to implement the duty, through statutory guidance, in a way that is consistent with, and adds to, existing work in Scotland.

Statutory guidance on how to fulfil the socio-economic duty, for devolved Scottish public authorities, should be issued by the Scottish Ministers, not by UK Ministers. In other words, clause 1(2) of the bill should not apply to the duty on Scottish devolved authorities, but a parallel provision should apply, specifying that the guidance will be issued by the Scottish Ministers. It would be inappropriate for the guidance for Scottish

devolved authorities to be issued by UK Ministers, when both the authorities themselves, and their responsibility for addressing socio-economic disadvantage, are devolved matters. For comparison, the specific equality duties on Scottish public authorities are devolved by the bill, despite equality generally being reserved.

Similarly, because this is an issue that is devolved to the Scottish Government, we believe that the provision in clause 2(5)(c) should not apply to the corresponding regulation-making power for Scottish Ministers. That provision prevents the Welsh Ministers from adding a devolved Welsh public body to the list of bodies to which the socio-economic duty applies, unless that body is similar to one of the English bodies already listed. For example, the Welsh Ministers could not add Welsh further education institutions to the list, because English further education institutions are not already listed in clause 1(3). We believe that, in contrast, Scottish Ministers should have the power to apply the duty to a wider range of devolved public authorities, if they choose.

For similar reasons, we believe that the requirement in clause 2(6) should not apply to the corresponding regulation-making power for Scottish Ministers. In other words, Scottish Ministers should not require the consent of a UK Minister before amending the set of Scottish devolved authorities to which the socio-economic duty applies.

Although it would be possible for the Scottish Government to introduce legislation in the Scottish Parliament to apply a socio-economic duty to devolved public authorities, we think that pressures on the legislative timetable mean that any such legislation might not be considered for some years. We think that the UK Equality Bill represents an opportunity that should not be missed. However, we do think that the devolution of the statutory guidance, and of the power to apply the duty to a wider set of bodies (as discussed in the previous three paragraphs), is necessary to ensure that the duty set out in the Equality Bill can be applied in Scotland in an appropriate and effective way, and in a way that respects the existing devolution arrangements.