

August 2018

Submission to the Women and Equalities Committee

'Enforcing the Equality Act: the law and the role of the EHRC' Inquiry

1. Just Fair works to realise a fairer and more just society in the UK by monitoring and advocating for the protection of economic and social rights. Just Fair is committed to increasing public awareness of international human rights law and the capability to use it, and is devoted to the advancement of high-quality thinking, training and practice to ensure that economic and social rights are respected, protected and fulfilled.

The socio-economic duty must be brought to life

2. The Women and Equalities Committee “wants to know what more needs to be done to achieve widespread compliance with the Equality Act 2010 for all those with rights under it”. The Committee is particularly interested in the effectiveness of the enforcement action to achieve widescale change.
3. The Equality Act contains a very valuable tool to achieve the necessary systemic change: The socio-economic duty.
4. The duty is contained in Section 1 and would require public authorities to have due regard to “the desirability of exercising (their functions) in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage”.
5. However, successive governments since 2010 have failed to commence the socio-economic duty, which means that public authorities are not technically bound by Section 1. Section 14, on the specific form of discrimination because of the combination of two or more grounds (multiple/intersectional discrimination), has not been implemented either.
6. In the case of Grenfell, for example, had it been in force, the socio-economic duty would have required the Kensington and Chelsea Council to consider whether its policies in relation to council tax, social housing, homelessness and disaster planning were adequate to address the enormous inequalities in the borough.¹
7. The UN Committee on Economic, Social and Cultural Rights has called on the Government to bring the socio-economic duty into force “in order to enhance and guarantee full and effective protection against discrimination in the enjoyment of economic, social and cultural rights”.² The UN Special Rapporteur on Contemporary

¹ Emma Dent Coad MP, [After Grenfell Housing and inequality in Kensington and Chelsea: “The most unequal borough in Britain”](#), November 2017.

² CESCR, [Concluding Observations: UK](#), July 2016, UN doc: E/C.12/GBR/CO/6, para. 23.

Forms of Racism recently lamented that the duty has not yet been implemented.³ Bringing Section 1 to life would also help the UK meet the Sustainable Development Goal No. 10 to reduce inequality.⁴

8. The duty is in force in Scotland since 1 April 2018, where it is known as the 'Fairer Scotland Duty'.⁵ Unfortunately, the duty remains uncommenced in Wales and England. However, the introduction of the duty has been endorsed by the Equalities, Local Government and Communities Committee and by the External Affairs and Legislation Committee of the National Assembly for Wales / Senedd.⁶ At the time of this writing, 78 MPs have expressed their support for Early Day Motion 591 (2017-19) calling on the UK Government to bring the socio-economic duty to life.
9. Even though Section 1 is technically not in force, some councils in England are showing what the duty could look like in practice. Just Fair interviewed 20 council representatives, senior officers and voluntary sector groups in Manchester, Newcastle, Oldham, Wigan, Bristol, York and the London Borough of Islington.⁷
10. Respondents used different frames and agendas to articulate their policies: Fairness, inclusive growth, impact assessment, equality budgeting, economic disadvantage, social exclusion... But all of them were clear that austerity had prompted them to react both because of the way Universal Credit and other welfare reforms were affecting their residents and because of the limitations on local government funding.
11. Just Fair's research shows that it is vital that someone senior, the leader or an executive member of the local authority, champions the council's work, ideally with local cross-party support. For example, York Council has created a Financial Inclusion Steering Group, which has executive member and senior officer engagement and distributes £300,000 of funding in crisis loans and financial inclusion initiatives.
12. The commitment to tackle socio-economic disadvantage must trickle down all levels of decision making to ensure that election results or staff turnover, significantly high in recent years, do not compromise the council's work. All the authorities in Just Fair's research have implemented the living wage and several respondents referred to the local fairness commission as a trigger of the council's work on inequalities.
13. A systematic and transparent assessment of the cumulative impact of political decisions is of paramount importance. The integrated impact assessments in

³ Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, "[End of Mission Statement at the Conclusion of Her Mission to the UK](#)", June 2018, para. 8.

⁴ UKSSD, [Measuring Up: How the UK is performing on the UN Sustainable Development Goals](#), July 2018, p. 82.

⁵ The Equality Act 2010 (Commencement No. 13) (Scotland), [Order](#) 2017, 2017 No. 403 (C. 30).

⁶ Equalities, Local Government and Communities Committee and External Affairs and Legislation Committee, "[Letter to the First Minister: Equality and human rights implications of Brexit](#)", April 2018.

⁷ Just Fair, [Tackling socio-economic inequalities locally: Good practices in the implementation of the socio-economic duty by local authorities in England](#), June 2018.

Newcastle have directly influenced spending and revenue priorities, not the least of which are the continuing funding of the welfare rights service and council tax reduction schemes for some households.

14. To be transparent and accountable, data must be available. All seven local authorities use a wide range of data on residents' standard of living as well as a significant amount of sources shared with health services and other stakeholders. In Bristol, for instance, 50 local indicators give an overall assessment of the wellbeing of citizens and communities in terms of sustainability, employment, overwork and deprivation.
15. Finally, residents and organised civil society can be both critical challengers and creators of innovative ideas. Manchester City Council cited an understanding of socio-economic disadvantage as being a key criterion in the allocation of local grants to the voluntary sector.
16. Further research is required to assess their effectiveness most critically, but these seven councils present 13 case studies of potentially good practice that deserve to be explored, tested and developed in other parts of the country. In the future, Scotland will provide other valuable examples through the new Fairer Scotland Duty.
17. The socio-economic duty offers a powerful lever to reduce the damaging gaps that harm us all. Equality defines a fair society. It should not be a postcode lottery. We urge the Women and Equalities Committee to **consider recommending the Government to bring to life the socio-economic duty (Section 1) and the remaining uncommenced clauses, in particular the principle of intersectionality (Section 14).**

When the time is right, socio-economic status should become a protected characteristic

18. The Women and Equalities Committee also wants to know "whether there are other models of enforcement, in the UK or other countries, that could be a more effective means of achieving widespread compliance with the Equality Act 2010, either overall or in specific sectors".
19. The Equality Act is the legal instrument by which the UK ensures that internationally recognised human rights are enjoyed without discrimination. As a State Party to the International Covenant on Economic, Social and Cultural Rights, the UK must "undertake to guarantee that the rights enunciated (therein) will be exercised without discrimination *of any kind*" (Article 2(2)).
20. That includes socio-economic status, among other grounds. The UN Committee on Economic, Social and Cultural Rights has established that "individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society. A person's social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatization and negative stereotyping which can lead to the

refusal of, or unequal access to, the same quality of education and health care as others, as well as the denial of or unequal access to public places”.⁸

21. Unlike the UK, at least 20 other European countries provide legal protection against discrimination on a ground related to socio-economic status.⁹
22. In light of most advanced international human rights standards and best practice from other countries, a future legal review could be the opportunity to **recognise socio-economic status as a protected characteristic** in the Equality Act.

⁸ CESCR, *General Comment No. 20: Non-discrimination*, July 2009, UN doc: E/C.12/GC/20, para. 35.

⁹ European Commission Directorate General for Justice and Consumers, *A comparative analysis of non-discrimination law in Europe*, 2017, pp. 12-14.