

Edward Mountain
Convener
Rural Economy and Connectivity Committee
The Scottish Parliament
Edinburgh
EH99 1SP

29 May 2019

SOUTH OF SCOTLAND ENTERPRISE BILL

Dear Edward,

During the Committee's Stage 2 considerations, I undertook to return to the Committee on a range of issues raised during the debate, including more information about we will set out our expectations of SOSE, through a strategic guidance letter and how we expect SOSE to tackle inequalities. This letter follows up on that commitment.

Strategic Guidance

I undertook to provide more details about how the Scottish Government will set out its expectations of South of Scotland Enterprise (SOSE). We set the strategic direction and overarching outcomes for the public sector in Scotland through the National Performance Framework (NPF) and Scotland's Economic Strategy. As part of our public bodies governance, Scottish Ministers issue annual strategic guidance letters to public bodies providing guidance on the policy framework and the bodies' roles in pursuing and delivering Ministerial policies and priorities and well as setting out their statutory requirements. Once issued, strategic guidance letters are published making clear and transparent our expectations and requests on the bodies.

I shall issue an annual letter of strategic direction to SOSE. It will explain the Scottish Government's expectations and priorities for the agency for the year ahead and ensure that it maximises the contribution its investment makes to delivering Scottish Government priorities on inclusive and sustainable growth and Fair Work. As well as our expectations and priorities, the letter will also set out specific requirements of SOSE, including its statutory requirements.

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Like the letters Scottish Ministers issue to Highlands and Islands Enterprise (HIE) and Scottish Enterprise (SE), it will be clear on a number of specific matters in which the Committee has specifically raised, including Fair Work, equalities and tackling poverty. I set out below the detail on what this would include. The publication of this year's letters to SE and HIE is imminent and I will share those with you as soon as they are published.

Tackling inequality and poverty

Our vision is for a body that will drive inclusive growth, increase competitiveness and tackle inequality within the South. Amendments lodged during stage 2 suggested that specific provision should be made for SOSE to tackle poverty and inequality and to pursue policies that advance non-discrimination and social and economic equality. We agree that these are vital issues to be tackled and low pay and the gender pay gap continue to be serious issues holding back the economy of the South. However, it is not necessary to make separate provision in this Bill as those duties are covered in other legislation. The statutory guidance letter will draw attention to these requirements, including the Public Sector Equality Duty and the Fairer Scotland Duty.

The **Public Sector Equality Duty** requires all Scottish public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. SOSE will be subject to the requirements of public bodies under the Equality Act 2010 and associated regulations made thereunder. These are designed to ensure that public bodies mainstream equalities, assess the impact of their equalities, and set equality outcomes. As such SOSE will be required to:

- to report on the mainstreaming of the Public Sector Equality Duty into the main business of the organisation and to set, every 4 years, equality outcomes and report on progress every 2 years;
- equality impact assess new policies and practices, and make arrangements for existing policies and practices;
- gather, use and publish employee information to better perform the general equality duty;
- publish gender gap information, and an equal pay statement;
- consider adding equality award criteria and contract considerations into procurement exercises.

These requirements will also be built into the set-up and delivery of SOSE to ensure that they are embedded from the start, and tackling inequality at all levels of society is integral to the work of SOSE. For this reason, I consider that these requirements and the Bill as drafted provide the necessary oversight and accountability in relation to SOSE furthering equal opportunities, included gender equality. It is also worth noting that public authorities that fail to meet the requirements of the regulations may be subject to enforcement action by the Equality and Human Rights Commission.

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Alongside this, the **Fairer Scotland Duty** puts tackling inequality at the heart of key decision-making. SOSE will be required to actively consider how it could reduce inequalities of outcome caused by social economic disadvantage; and to publish a written assessment, showing how it has done this.

To be made subject to the Fairer Scotland Duty, public authorities must be listed in regulations. In an appearance at the Equalities and Human Rights Committee on 1 March 2018, ahead of the introduction of the Fairer Scotland Duty in April that year, the then Cabinet Secretary for Communities, Social Security and Equalities set out that regulations would be introduced in future years to add new public authorities on an occasional basis. As noted above, my expectation is that the agency will behave as if it were already subject to the duty - from the outset of its work.

Promoting Fair Work

In developing proposals for SOSE, I have made clear that I expect the agency, in exercising its powers, to promote Fair Work, through its activities with enterprises and through its internal operation. I will ensure that we use all the levers open to us specifically to ensure that:

- SOSE will act in its operations as an exemplar of Fair Work. The policy memorandum accompanying the Bill made very clear the role of SOSE in contributing to the Government's ambitions for Fair Work;
- Fair work will be embedded within SOSE from the outset through:
 - Ensuring the Chair and Board are committed to Fair Work – and the advert for the Chair highlighted Fair Work as an essential competency;
 - The Strategic Guidance Letter to SOSE sets out in guidance what it needs to do to deliver Fair Work setting out what needs to be in its action plan
 - Ensuring the Chief Executive is committed to Fair Work (with advert when issue setting out this requirement) and requiring the terms of conditions of its staff as set out in SOSE's employment manual to recognise the dimensions of Fair Work; and
 - Making clear that like SE and HIE in due course, SOSE will be an become an Accredited Living Wage Employer, paying the real Living Wage to employees and people involved in delivering public contracts; and to recruit a diverse and inclusive workforce.
- SOSE takes forward discussions with its unions to implement the model of the Scottish Government's agreement with the civil service trade unions to embed fair work. I will look to SOSE to pledge to do this while making clear this needs to be done in negotiation with those representing its staff; and
- SOSE adopts Fair Work First, adapting the outcome of the current pilot project that SE is taking forward and applying the learning from it. It will also support Fair Work through active promotion of the Business Pledge.

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In line with the assurance I gave the Committee, I continue to discuss our approach with the STUC and with interested MSPs. That includes on what more we might put on the face of the Bill to give effect generally to this Government's commitment to Fair Work and anything specifically to give effect to the five dimensions of our Fair Work Framework.

Action Plan

I also thought it would be helpful to explain more the planning requirements of SOSE. As set out in the Bill, SOSE must make an 'action' plan of the things it intends to do to achieve its aims and keep this under review. Following amendments agreed at Stage 2, it will also have a statutory requirement to consult on the action plan.

Public bodies are generally required to publish a 'corporate' plan which reflects strategic aims and objectives, indicative budgets and any priorities set by Scottish Ministers, and which will be reviewed every 3 years (or as agreed by Ministers). Such plans inform the development of annual 'business' plans which should include key targets and milestones for the year ahead.

As recognised by the Committee however, different terms are used for these documents – strategic plans or frameworks, corporate plans, business plans, and operating plans – reflecting what is approach for each public body. South of Scotland Enterprise provides a new opportunity to do things differently, and we selected the term action plan to reflect, not only modern drafting, but to demonstrate that we expect SOSE to be dynamic in delivering its aims and driving forward transformational growth.

The action plan will set out how it intends to achieve its aims and objectives and include clear references to the priorities set for SOSE, including equalities and Fair Work, as explained in the strategic guidance letter. Ministerial approval of the action plan ensures that the activities it proposes to undertake will help achieve its overall aims and are aligned to national outcomes and key documents such as the Enterprise and Skills Strategic Board Strategic Plan, Economic Action Plan and the National Performance Framework.

The importance of reviewing plans was recognised by Committee members. Work is underway to align agency business plans which includes planning cycles being harmonised. A letter to the Enterprise and Skills Agency Chairs earlier this year set out our expectations in respect of that, and I attach a copy for your interests. Once SOSE is established, we will expect it to synchronise with this approach which seeks to support collaboration and coordination, allowing the enterprise and skills agencies to spot opportunities for collaboration and to remove overlaps. This highlights the key role of the Strategic Board in ensuring that the agencies collaborate and activities are aligned and coordinated.

I intend to bring forward amendments which deliver the Committee's concern for regular review. To ensure that the cycle is able to align with that of the other enterprise bodies, I shall provide that the SOSE should consult on its action plan within 5 years of completing the last consultation.

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Collaboration and Co-operation

The Committee wanted to ensure that SOSE collaborated effectively with other public sector organisations. A collaborative approach will be vital to the agency successfully delivering its aim of furthering the economic and social development of the South of Scotland and improving the amenity and environment of the South of Scotland. My strategic guidance letter will clearly set out the significance of planning and working collaboratively with other bodies, including the enterprise and skills bodies. The new agency will, of course, be part of the Strategic Board.

I believe that this culture of co-operation has been a key characteristic of the work across the South, taken forward by the South of Scotland Economic Partnership. The strength of those relationship forged and the fresh dynamic it has brought to discussions and activities will, I am confident, continue. We are committed to establishing regional economic partnerships across Scotland, locally developed. The South of Scotland Alliance already operates successfully in the South and I look forward to seeing how the Alliance might develop to support regional collaboration.

The Committee was also interested in ensuring that SOSE could help facilitate other bodies working together in pursuit of its aims. I agree that this is important but I don't think we need to legislate further for it. It is about establishing this as the culture of the agency, woven through its fabric. Supporting people and groups to work together to further the social, economic and environmental development of the South of Scotland will be central to how the agency goes about its work. That approach is very clearly implied by the list of activities, shaped by the Committee, which SOSE might undertake to deliver its aims.

Supporting the Rural Economy

Finally, I am aware that there has been some concern that the Bill does not properly recognise the predominantly rural nature of the south of Scotland in which SOSE will operate. The south of Scotland's different and distinct rural economy has been recognised from the outset and, as made clear in the policy memorandum, SOSE will play a leading role in supporting that rural economy.

I continue to be happy to discuss this, and any other matters, with Committee members in advance of Stage 3. I look forward to the stage 3 debate, a key milestone in making the establishment of a new enterprise agency a reality.



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Deputy First Minister and Cabinet Secretary for
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Mike Cantlay, Chair, Scottish Funding Council
Lorne Crerar, Chair, Highlands and Islands Enterprise
Willie Mackie, Interim Chair, Scottish Enterprise
Frank Mitchell, Chair, Skills Development Scotland

By Email.

15 March 2019

Dear Enterprise and Skills Agency Chairs,

ALIGNMENT OF AGENCY BUSINESS PLANS

Further to our joint letter to you of 11 January this year, we are writing to clarify our expectation that you collectively ensure that your forthcoming business plans align, both across the agencies and in support of the aims of the Enterprise and Skills Strategic Board's Strategic Plan.

We very much welcome the progress made by the agencies to date towards improving collaboration, and it is our understanding you have been able to demonstrate significant progress to the Board around alignment in several important areas.

However, we are keen to maximise the unique opportunity that the forthcoming launch of your three-year strategic plans presents to align your planning and ambition. Based on advice from the Strategic Board, we see further opportunity to improve alignment in the following areas:

- The plans should form behind a shared vision, one which supports the Strategic Plan, Economic Strategy and Economic Action Plan.
- Common assumptions should be used across the plans – shaped by the Scottish Government's economic analysis and the Strategic Board's Analytical Unit.
- The plans should make clear how they contribute towards the Strategic Plan and its missions, and state explicitly how they will take forward the Strategic Plan's actions and those recommendations that have been approved by Ministers. There should be shared decision making among the agencies on how activity will support the outcomes sought.

- There should be alignment of the plans' measurement and performance indicators and they should make clear how agency activity supports the outcomes of the Strategic Board's performance framework and the NPF.

We therefore request that you look to comprehensively address these factors in your forthcoming business plans, and to ensure that your agencies are genuinely co-developing plans in support of these goals, including at the most senior level.

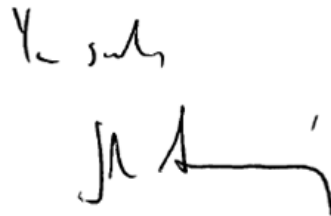
We also consider it imperative that the Strategic Board have a meaningful opportunity to comment on the emerging plans and to influence their content (through advice to Ministers where appropriate).

We view the harmonisation of your planning cycle on a common 3-year horizon as a positive development. We now see the crucial opportunity for alignment afforded by these multi-year plans. We therefore wish to be assured that the plans are sufficiently aligned before approving the plans for publication, even if that means that there is a delay in their publication.

As sponsoring Ministers, we also look forward to your updates on progress on alignment and furthering the Strategic Board's plan at our regular bilateral meetings with you.

We recognise that the Scottish Government also has a key role to play in support of these goals, through similar alignment of the sponsorship function and forthcoming letters of guidance to agencies, so we will ensure that the necessary processes are in place within the Scottish Government to provide the support your agencies need to fulfil these requirements.

We look forward to working with you as you develop plans which collectively maximise Scotland's investment in its enterprise and skills agencies, and support us in meeting our goal to create a prosperous nation with better jobs, fair work and a dynamic, sustainable and inclusive economy.



Derek Mackay, Cabinet Secretary for Finance, Economy and Fair Work
John Swinney, Deputy First Minister and Cabinet Secretary for Education and Skills

Fergus Ewing, Cabinet Secretary for the Rural Economy and Connectivity
Richard Lochhead, Minister for Further Education, Higher Education and Science

CC:

Minister for Business, Fair Work and Skills

Minister for Trade, Investment and Innovation

Nora Senior, Chair, Enterprise and Skills Strategic Board

Russell Griggs, Chair, South of Scotland Economic Partnership