

# Environment and Sustainability Committee

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Meeting Venue:

**Committee Room 3 – Senedd**

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Meeting date:

**Thursday, 25 September 2014**

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Meeting time:

**09.15**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



For further information please contact:

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## Agenda

MeetingTitle

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### **1 Introductions, apologies and substitutions**

### **2 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence session 1 (09:30 – 10:30) (Pages 1 – 55)**

Carl Sargeant AM, Minister for Natural Resources, Member in charge

Amelia John Deputy Director, Fairer Futures Division

Andrew Charles, Head of Sustainable Development

Sioned Rees Deputy Director, Local Government Partnerships

Louise Gibson, Lawyer

Owain Morgan, Lawyer

[The Well-being of Future Generations \(Wales\) Bill](#)

[Explanatory Memorandum](#)

**Break (10:30 – 10:40)**

### **3 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence**

**session 2 (10:40 – 11:25)** (Pages 56 – 65)

**Natural Resources Wales**

Ceri Davies, Executive Director Knowledge Strategy and Planning

Clive Thomas, Director of Governance

E&S(4)–21–14 Paper 1

**4 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence**

**session 3 (11:25 – 12:25)** (Pages 66 – 77)

Peter Davies, Commissioner for Sustainable Futures

David Fitzpatrick, Chief executive, Cynnal Cymru

E&S(4)–21–14 Paper 2: Commissioner for Sustainable Futures

E&S(4)–21–14 Paper 3: Climate Change Commission for Wales

E&S(4)–21–14 Paper 4: Cynnal Cymru

**Break (12:25 – 13:25)**

**5 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence**

**session 4 (13:25 – 14:10)** (Pages 78 – 89)

**UK Environmental Law Association**

Professor Robert Lee, Joint Convenor, Wales Working Party

Dr Haydn Davies, Joint Convenor, Wales Working Party

Dr Victoria Jenkins, Member, Wales Working Party

E&S(4)–21–14 Paper 5

**6 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence**

**session 5 (14:10 – 14:55)** (Pages 90 – 99)

Professor Calvin Jones, Professor of Economics, Cardiff Business School

Professor Susan Baker, Sustainable Places Research Institute, Cardiff University

E&S(4)–21–14 Paper 6: Professor Calvin Jones

E&S(4)–21–14 Paper 7: Sustainable Places Research Institute

**7 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for item 8**

# Agenda Item 2

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## Geirfa'r Gyfraith

# Bil Llesiant Cenedlaethau'r Dyfodol (Cymru)

## Cyflwyniad

Mae'r ddogfen hon yn rhoi crynodeb o'r termau technegol a deddfwriaethol Cymraeg sy'n gysylltiedig â'r **Bil Llesiant Cenedlaethau'r Dyfodol (Cymru)** ('y Bil'), a hynny er gwybodaeth i Aelodau. Cyflwynwyd y Bil ar **7 Gorffennaf 2014** gan **Jeff Cuthbert AC**, y Gweinidog Cymunedau a Threchu Tlodi, yr Aelod Cynulliad sy'n gyfrifol am y Bil. Mae'r Pwyllgor Busnes wedi cyfeirio'r Bil at y **Pwyllgor Amgylchedd a Chynaliadwyedd**.

## Termau penodol i'r Bil

- advisory panel – **panel cynghori**
- annual well-being report – **adroddiad llesiant blynyddol**
- appointed member(s) – **aelod(au) penodedig**
- collaboration – **cydlafurio**
- common aim – **bwriad cyffredin**
- directions to merge or collaborate – **cyfarwyddiadau i uno neu i gydlafurio**
- duty to follow recommendations – **dyletswydd i ddilyn argymhellion**
- Future Generations Commissioner for Wales – **Comisiynydd Cenedlaethau'r Dyfodol Cymru**
- Future Generations report – **adroddiad Cenedlaethau'r Dyfodol**
- future trends – **tueddiadau'r dyfodol**
- future trends report – **adroddiad tueddiadau'r dyfodol**
- improving well-being – **gwella llesiant**
- integrated community planning – **cynllunio cymunedol integredig**
- invitation(s) to participate – **gwahoddiad(au) i gyfranogi**
- invited participant(s) – **cyfranogwr (cyfranogwyr) gwadd**
- joint working – **cydweithio**
- local aim – **bwriad lleol**
- local well-being assessment(s) – **asesiad(au) llesiant lleol**
- long-term thinking – **meddwl yn y tymor hir**
- merging public services boards – **uno byrddau gwasanaethau cyhoeddus**
- national indicator(s) – **dangosydd(ion) cenedlaethol**
- overview and scrutiny committee – **pwyllgor trosolwg a chraffu**
- preventative action – **camau gweithredu ataliol**
- public body – **corff cyhoeddus**
- public services board – **bwrd gwasanaethau cyhoeddus**
- reporting period – **cyfnod adrodd**
- Sustain Wales – **Cynnal Cymru**
- Sustainable Development Charter – **Siarter Datblygu Cynaliadwy**
- sustainable development principle – **egwyddor datblygu cynaliadwy**
- Sustainable Development Scheme – **Cynllun Datblygu Cynaliadwy**

- UK Sustainable Development Commission – **Comisiwn Datblygu Cynaliadwy y DU**
- welfare – **Iles**
- well-being – **Ilesiant**
- well-being goal(s) – **nod(au) Ilesiant**
- well-being objective(s) – **amcan(ion) Ilesiant**
- well-being plan(s) – **cynllun(iau) Ilesiant**

## Rhagor o wybodaeth

I gael rhagor o wybodaeth, cysylltwch ag **Andrew Minnis** ([Andrew.Minnis@cymru.gov.uk](mailto:Andrew.Minnis@cymru.gov.uk)) yn y Gwasanaeth Ymchwil.

# Agenda Item 3

National Assembly for Wales  
Environment and Sustainability Committee  
WFG 59  
**Well-being of Future Generations (Wales) Bill**  
**Response from Natural Resources Wales**



## **Written evidence from Natural Resources Wales to the Environment and Sustainability Committee on the Well-being of Future Generations Bill, as laid July 7 2014.**

### **1. Key Messages:**

We are very supportive of the Well-being of Future Generations Bill (the Bill), its Goals, duties and intent. We particularly welcome the changes to create the resilient Goal. We believe that our founding legislation and purpose as an organisation is already well aligned and that the Bill will support achievement of our purpose.

There are some specific areas where we ask for clarification, raise concerns, and make recommendations. These are across:

- The Global context of the Bill
- Environmental limits and climate change;
- NRW's roles on Public Service Boards (PSBs) and Future Generations Commissioners' Advisory Panel;
- Sanction and redress;
- Alignment with other emerging legislation, particularly the Environment Bill and Local Government Reform;
- Measures of progress and Reporting requirements;
- Role of Future Generations Commissioner in respect of climate change;
- The figures used in Regulatory Impact Assessment (RIA);
- Subordinate legislation.

We offer our expertise in respect of the development of the National Indicators, statutory and other guidance, as well as to the Welsh Government and the Future Generations Commissioner in the production of their respective Future Trends and Future Generations reports.

### **2. Introduction:**

The purpose of Natural Resources Wales is to ensure that the environment and natural resources of Wales are sustainably maintained, sustainably enhanced and sustainably used. In this context sustainably means with a view to benefiting, and in

a manner designed to benefit, the people, environment and economy of Wales now and in the future.

Our establishment as a body to manage the natural resources of Wales from an ecosystems approach, is in itself a contribution to the sustainable development of Wales.

We therefore welcome legislation that further strengthens governance arrangements in Wales for decision making that embeds sustainable development principles. We see the Bill as an important step and tool, in achieving sustainable development in Wales.

We believe that we are well positioned to transition to delivery of the general requirements of the Bill on us, anticipated to be from 2016. We have developed a corporate and business planning process which prioritises activities to deliver common outcomes that we share and have agreed with the Welsh Government, via our sponsoring department. We therefore believe that our current corporate plan, which runs until 2017, is already well aligned to the requirements of the Bill. It sets out how and where our activities will be good for people, the economy and the environment and how we will operate as a good organisation, all underpinned by use of good knowledge and working with others to deliver it.

In respect of applying the Sustainable Development (SD) Principles, we developed our Corporate Plan through involvement, will need to work collaboratively to deliver our purpose and we already need to consider future generations when managing natural resources, for example: water resources. We believe the Bill will support the delivery of our purpose. Our Corporate Plan from 2017 will be based on objectives that align to the Goals.

We welcome the opportunity to present to the Committee on our general support for the Bill, whilst also raising some areas for further consideration and clarification. We have responded under the Committees' Terms of Reference headings.

### **3. Detailed response:**

#### **General:**

***How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government;***

***How effectively the Bill addresses Welsh international obligations in relation to sustainable development;***

We have been involved in the Advisory Group to the Bill and are pleased with the overall intent and principles set out in the Bill. We particularly welcome the re-wording of the Goals to better reflect natural resources and the role healthy and resilient ecosystems play, in the well-being of society and the economy. We also welcome the addition of descriptors to the Goals. These help to give greater understanding and clarity around the integrated nature of each goal. We believe



however that the measures of progress and statutory guidance will be equally important to convey intent.

Whilst we welcome the Welsh Government legislating to put sustainable development at the heart of government in Wales and appreciate that the Bill can only apply to Welsh bodies and processes, we have some concern that there appears to be little recognition of it operating in a wider UK, EU and global landscape. This will include legislation and policy, as well as international economic processes and global environmental systems. These may prevent Wales realising sustainable development.

The Explanatory Memorandum only seems to discuss the wider than Wales issues in the context of what UK, EU and Global SD agendas, helped inform the principles within the Bill. It does not identify or discuss in any detail the implications for Wales of delivering the Goals, whilst operating in these wider than Wales systems. The Explanatory Memorandum discusses some barriers to undertaking long term thinking; for example the discounting of future costs and benefits. However, what is not clear is whether it is proposed, or even possible, that Wales do something different in respect of these barriers. For example, develop its own model for economic appraisal including accounting for future generations. We believe more consideration will need to be given to these wider than Wales issues in any guidance.

There is also a risk that unknowingly Wales' exports its unsustainability through pursuit of an only Wales agenda and that at a global level there is no improvement through the introduction of the Bill.

- **Specific comments:**

***The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the following areas –***

***The “common aim” and “sustainable development principle” established in the Bill and the “public bodies” specified;***

- We support the Purpose, Aim and SD principle set out in the Bill. We welcome establishment of a governance framework for the public bodies, which requires an integrated consideration of the social, economic and environmental wellbeing issues in respect of decisions and action taken now, whilst taking the needs of future generations into account.

***The approach to improving well-being, including setting of well-being goals, establishment of objectives by public bodies and the duties imposed on public bodies;***

Goals:

- We believe the Goals set out in the Bill better reflect the outcomes for a sustainable Wales. We particularly welcome the better reflection of natural

resources, systems and resilience; the ecosystems approach is a tool that supports delivery of SD.

- The measures of progress for the Goals, will be key to ensuring articulation and assessment of the direction of travel to a sustainable Wales.
- Guidance will be key to explain the linkages between Goals, measures of progress and objectives, as well as the specifics of how to comply with the requirements of the Bill.
- The guidance that supports the Bill will need to set out explicitly, the issues that are only implicitly covered in the Goals. For example:
  - **Environmental limits.** Whilst the Explanatory Memorandum provides some clarity in respect of the need to operate within environmental limits, the guidance will need to state this explicitly and through discussion of the ecosystem approach, explain what this means and how it's applied.
  - **Climate change** is only implicit in the Goals, with little or no explicit reference in the Bill. The guidance must make clear where and how climate change should be considered. Climate change could be made more explicit in the Goals by inserting in Table 1 under 'A resilient Wales', 'including Climate Change' at the end of the description;
- We believe we have experience and expertise that would usefully inform the development of statutory guidance with respect to the Bill and we would welcome the opportunity to contribute.

#### Well-being Objectives:

- We support a requirement to set outcome focused objectives within the corporate planning process, which maximise the organisations contribution to the Goals.
- We expect our post 2017 Corporate Plan to have objectives fully in line with the Bill.

#### Duties:

- We support the SD principle of 'considering future generations needs in the decisions and activity we take now' and therefore support development of objectives that consider this and set out how an organisation, will maximise its contribution to achievement of the Goals.
- We support the Duty, as set out in Section 7 and 8 of the Bill, which requires the public bodies named in the Bill to set well-being objectives in line with the 'sustainable development principles'. The principles set out in Section 8 are well established SD principles.

- As discussed in Goals above, the other established principle is “living within environmental limits”, which will require greater explanation in the guidance.
- We particularly support the principles of collaboration and prevention, along with the requirement for resources/budgets to be aligned to delivery of the objectives. We hope that the intention of this includes opportunity for flexible budgeting linked to outcomes. For example, health prevention budgets supporting access and activity in natural green space.

***The establishment of a Future Generations Commissioner for Wales, the Commissioner’s role, responsibility, governance and accountability.***

- We support the establishment of an Independent Future Generations Commissioner with powers to make recommendations to public bodies.
- The Bill however also provides caveats that allow public bodies to not comply with a recommendation (20(1)(a/b)). This seems to weaken the primary sanction or redress provided for in the Bill. We appreciate that there needs to be some flexibility around an organisations response to the issues identified by the Commissioner and also recognise that the Bill will operate within the democratic process. We believe therefore that the Bill and any supporting guidance would benefit from greater clarification as to the role of the democratic process, scrutiny, at local government, Welsh Government and by the Wales Audit Office, and the transparency of reporting, in ensuring compliance.
- We welcome the recognition that natural resource management and the environment needs to be reflected in the Commissioners Advisory Panel and that NRW, as the leading body for the environment and natural resources in Wales, has been identified as a member. However, along with others, we have some concern about the potential for conflict of interest arising between the roles. We may be issued recommendations by the Commissioner which have been informed and advised on by the Advisory Panel, on which our Chair or nominated Non-executive will sit. We are unclear how this will be managed. We note that the explanatory memorandum does clarify that a role on the Advisory Panel does not impact on members other statutory functions.

Clarification is sought on:

- The statement that the Future Generations Commissioner will provide climate change advice to Welsh Ministers. Will they only provide advice on climate change to Ministers? What about the public bodies?

We suggest the text under Part3/18 (1) (a) could be amended, or a separate point made, to the effect that the Commissioner can

‘..provide advice or assistance to a Public Body, Public Service Board or Community Council in relation to considering climate change and the achievement of the well-being goals’

- Will the Future Generations Commissioner be the Climate Change Commissioner? What will the status of the Climate Change Commission in Wales be post the enactment of this Bill?

A value of the Climate Change Commission is the opportunity it provides to discuss the complex issues around climate change in Wales in a specific forum.

- It would be helpful to have clarity on whether the National Conversation and SD Charter are the processes that will be used to perform this function for SD in Wales. We believe that in order to make the radical shifts needed to achieve a sustainable Wales, debates in these fora based on future scenarios, opportunities and hard choices, will be essential.

***The establishment of statutory Public Services Boards, assessments of local Well-being and development / implementation of local well-being plans.***

- Whilst we support a stronger framework for delivering sustainable development through local public service delivery and therefore welcome the establishment of PSBs and Well-being plans on a statutory footing, we have some concern about resourcing the needs of all 22 PSBs as a statutory member. This more than doubles our current engagement level.
- To deliver the intent of the Bill and enable efficient and effective engagement, PSBs will need to operate at the strategic level locally, and in line with this Bill, use an integrated approach to needs assessment and delivery to ensure equity across the three issues.
- To ensure efficiencies, the establishment of PSBs and Well-being plans would benefit from being aligned to the proposals for Local Government reforms in the “White Paper – Reforming Local Government”, currently out for consultation. There appears to be potential for 22 PSBs to develop Well-being plans and then within a couple of years the number of LAs and therefore PSBs to be reduced.
- To be effective, senior managers with decision making and resource committing delegated powers would need to attend the PSB. A reduced number of PSBs would therefore enable us, and others, to more efficiently and effectively engage. We believe therefore that it would be preferable to start the PSB and Well-being plan process with the smaller number of local authorities proposed, rather than the larger number and reduce down. There does appear to be scope in both Bills to achieve this, through Minister Direction in the Bill and voluntary merger in the Local Government Reform White Paper.

- Clear alignment with other emerging Bills will also be essential, particularly on process. For example the links between the development of area natural resource statements under the Environment Bill and the Well-being plan of PSBs. Clarity around timeframes, particularly in respect of availability of ecosystem data, evidence and information will be needed. Alignment around joint delivery and reporting requirements on the priorities identified, both nationally and in area statements will also be required.
- In respect of the list of assessments set out in section 36 (3), that should be considered when developing a well-being plan, we recommend that the UK Climate Change Risk assessment, the Climate Change Strategy and sectoral Adaptation plans should be added. We would expect that additional assessments, such as those being proposed under the Environment Bill, would be brought in under the regulations option in 36 (3) h.

***The approach to measuring progress towards achieving well-being goals and reporting on progress;***

- Measures of Progress and statutory guidance will be key to delivery of the Bill's intention. Indicators and monitoring will need to reflect both Wales' achievement of the Goals, as well as our relative consumption of the earth's resources globally.
- The Bill sets out a number of reporting requirements. We will be both subject to the Bill and be a member of the PSB and will therefore potentially report through two mechanisms. There are already reporting requirements on individual public bodies and for PSBs, so it is our intention to develop a single annual reporting approach that delivers both requirements.
- We note that there is the option in the Bill to discharge our SD duty (objective setting) through the PSB. We do not believe that all of our activities and objectives that describe how we will be contributing to the Goals, could be discharged through the PSB and its well-being plan. We are therefore unlikely to utilise this option.
- We welcome that reporting is through existing mechanisms and not an additional layer. Reporting shouldn't become an industry at the expense of delivering the intent of the Bill.
- We do welcome and support the strengthening of scrutiny around the PSB and well-being plan. We would ask if there is a need for support and training to the scrutiny panels around SD and if this is a role for the Future Generations Commissioner?
- We would welcome working with:
  - The Future Generations Commissioner when producing the Future Generations Report, to ensure the evidence from State of Natural Resources Report (SoNaRR) is utilised.

- The Welsh Government on the Future Trends report, utilising evidence from SoNaRR and horizon scanning futures work, and;
- Welsh Government in setting the Measures of Progress (National Indicators) where we have expertise and experience.

#### **4.0 Barriers, unintended consequences, financial implications and subordinate legislation**

##### ***Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;***

- Whilst there are opportunities for supporting delivery of the intent of the Bill through all the emerging Bills and Local Government reform agenda, the very fact that we are operating in a changing policy and structural landscape with reduced resource, may itself create barriers. Flexibility will be needed to align and manage these changes.
- Operating within local and global agendas, including environmental systems, will pose barriers. Whilst the Bill itself cannot address these directly, we believe the supporting explanatory material and any guidance should raise awareness of the issue and make clear where Wales is considering any solution.
- We operate across borders with England, particularly with respect to managing natural resources. Decision making at these locations may not necessarily be driven by the same principles.
- Activity from non-devolved public sector bodies in Wales, which will not be subject to the duties.

##### ***Whether there are any unintended consequences arising from the Bill;***

- There is the danger that the process drives a focus on setting objectives and reporting, but is not utilised as the catalyst for fundamental change in service delivery, i.e. to long term, prevention focused, integrated outcome delivery.
- Wales may look like it has a different operating environment for business, which could be seen as negative. This needs to be managed well and the positives of operating in a more sustainable country will need to be communicated.

##### ***The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum and Regulatory Impact Assessment; which estimates the costs and benefits of implementation of the Bill); and***

- We will continue to work with Welsh Government at the relevant review stage to firm up on the RIA figures. We are unclear on some of the source data for the NRW figures at this stage and there is the potential that these costs are an under estimate. However, this has to be considered against the fact that as

an organisation which needs to work with others to deliver its purpose, we would look to work with key partnerships to achieve this and it may yield efficiencies.

- If PSBs are established as this Bill sets out, i.e. the strategic partnership undertaking integrated consideration and delivery across social, economic and environmental issues, at the local level, we would see this as a worthwhile investment. These would be a key delivery partnership and we would align resources accordingly. As discussed above, this would be more efficient with a smaller number of PSBs.
- We think it would have been beneficial in the PSB section, to use the approach used in the corporate planning element of the RIA which considers a transition cost and then an ongoing cost. There will be work to set up the PSBs, terms of reference, guidance etc., which will increase the initial costs relative to ongoing costs. Also, we have input to needs assessments for some Local Service Boards to date and will in future need to for all PSBs, but are not listed at all in this section.
- For the corporate planning section however, we feel this would be core work, just a different way of working in some cases and should not therefore incur significant additional ongoing costs.
- Overall, we anticipate a small increase in resource for the first few years, but once established, Corporate Planning and engagement with PSBs would become core work within NRW.

***The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).***

- We note that there is a power to make subordinate legislation to amend the well-being Goals. Whilst we can appreciate the need to allow for change overtime, the Goals set the long term outcomes and vision for Wales and should not therefore be subject to review over short timeframes. We welcome therefore that this power is an affirmative process, requiring approval in plenary.
- We support 36 (3) h which gives Welsh Ministers powers to require PSB to consider other Assessments. We are recommending that the UK Climate Change Risk Assessment is one that should be listed now, amongst others, but welcome the ability to add others over time as they emerge.
- As per comments already made, we also support powers 43(2)(a) which allows ministers to require a PSB to review its well-being plan if substantially non-compliant, and 46(2) allowing Ministers to issue direction to require two or more PSBs to merge and 47(2) to collaborate.

Natural Resources Wales  
5 September 2014



# Agenda Item 4

National Assembly for Wales

Environment and Sustainability Committee

WFG 60

Well-being of Future Generations (Wales) Bill

Response from Commissioner for Sustainable Futures

**Peter Davies**

Comisiynydd Dyfodol Cynaliadwy

Commissioner for Sustainable Futures

5<sup>th</sup> September 2014

Environment & Sustainability Committee

National Assembly for Wales

Cardiff Bay

CF99 1NA

Dear Chair,

## **Consultation on the Well-being of Future Generations (Wales) Bill**

I welcome the opportunity to respond to the Committee's inquiry on this Bill and set out below my comments and views on the proposed Bill in providing an adequate framework by which Wales can be a sustainable nation.

These comments are a summary of the views gathered over several years as the independent Commissioner for Sustainable Futures which included chairing an FG Bill Reference Group between September 2012 and July 2014, and from discussions with community groups, organisations, businesses and individuals gathered from the national conversation on The Wales We Want, which I have been leading on behalf of the Minister for Communities and Tackling Poverty.

The first point I would want to stress is that the Bill is an important step forward in our commitment to sustainable development which has been a distinctive dimension of devolution. However experience has demonstrated weaknesses in the procedures required under the existing duty, highlighted in the successive independent reviews undertaken by each new administration and in the Commissioner's independent commentary on the Annual Sustainable Development Report including:

- Sustainable development is treated as a cross cutting theme alongside others not as a central organising principle
- The Scheme and reporting process run parallel to the programme of Government and are not seen to be central policy
- The duty only applies to Welsh Government and has no traction across the public sector

# Peter Davies

## Comisiynydd Dyfodol Cynaliadwy

### Commissioner for Sustainable Futures

- The Sustainable Development Indicators produced each August have little connection to policy and performance
- The remaking of the scheme by an incoming Government can mean it is up to 2 years before a new scheme comes into being

The Bill must also be seen in the global context of the UN process of establishing global Sustainable Development Goals and has been recognised by the UN as an important legislative development that can align national and global actions.

The process of developing the Bill has been supported by the Future Generations Bill Reference Group involving key stakeholders and chaired by the Commissioner. It has also drawn from shared learning with countries / regions who are following a similar path (e.g. Finland, Germany, Hungary and Catalonia) , key reports such as the Oxford Martin Commission on the Future “Now for the Long Term” [http://www.oxfordmartin.ox.ac.uk/downloads/commission/Oxford\\_Martin\\_Now\\_for\\_the\\_Long\\_Term.pdf](http://www.oxfordmartin.ox.ac.uk/downloads/commission/Oxford_Martin_Now_for_the_Long_Term.pdf) and expert groups including The World Futures Council, The Stakeholder Forum and the Foundation for Democracy and Sustainable Development.

The Bill introduces a number of important mechanisms that can improve our governance for the long term and establish a common framework for how the public sector does business in Wales. However the big challenge for the Bill is the gap between the statement that the Bill provides a “framework for how the public service does business in Wales” and its connection with other legislation, and the current understanding of its purpose across the public service in Wales.

#### Goals and Measures

The Goals are understandably high level but they do play a key role in bring greater clarity to the concept of sustainable development. However they need to be widely understood owned and translated into practical measures if they are to be effective. It is important that they are seen to be integrated and interconnected and not treated as separate silos. There will need to be further amendment to the goals, for example strengthening the international dimension, which is particularly significant around the issue of environmental limits and planetary boundaries, which are important concepts but often difficult to translate meaningfully into practice.

The Bill requires Government to set the indicators or measures of progress that will underpin the national Goals. These measures will be critical, providing a “national scorecard”, and allowing us to monitor progress in achieving the Goals. They can also provide the basis for a performance framework across the public sector.

#### Swyddfa'r Comisiynydd:

Cynnal Cymru - Sustain Wales  
Cambrian Buildings | Sgwâr Mount Stuart | Bae Caerdydd | CF10 5FL

#### Office of the Commissioner:

Cynnal Cymru - Sustain Wales  
Cambrian Buildings | Mount Stuart Square | Cardiff Bay | CF10 5FL

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Datblygu Cynaliadwy  
Llywodraeth Cymru

A Welsh Government  
Sustainable Development  
Charter Signatory

# Peter Davies

## Comisiynydd Dyfodol Cynaliadwy

### Commissioner for Sustainable Futures

The recommendations on the “measures that matter” will be the core focus for the Future Generations Report generated from the next stage of the national conversation and will draw on international practice in “Beyond GDP” measures.

I do not think that the Bill should set targets against these measures as I would see this as being part of the local and national democratic process as potential programmes of Government should clearly set out how they are intending to improve performance across the measures. Indeed successive Governments will need to review measures to ensure they remain fit for purpose. However I think there is a strong case for a specific set of requirements in respect of climate change.

The national conversation has highlighted that climate change is seen as the single most critical issue that people across Wales felt would affect future generations and there is a strong case that it must be given greater reference in the Bill. I have previously written to Ministers on this point in my role as Chair of the Climate Change Commission for Wales (CCCW). We will be considering specific recommendations at the Climate Change Commission meeting on September 24<sup>th</sup>, which I will then be able to submit in evidence to the Committee. In the meantime, a separate letter is also being submitted as evidence on behalf of the Commission to re-emphasise the points that were highlighted in my letter to the Ministers.

#### **Sustainable Governance Approaches**

The focus on goals and measures of progress (outcomes) will only be effective if the governance approaches set out in 8.2 of the Bill are applied.

This section sets out key decision making principles that need to be taken into account by public bodies - preventative action, integrated approach, long-term thinking, collaboration and engaging communities and interested parties. There is a danger that they are lost in the focus on the goals, but these are the key principles that need to be applied transparently in the decision making process. There is a strong case for strengthening this element to more clearly incorporate the principles of co-production through citizen engagement.

It also worth highlighting that the “evidence” principle has been lost from the White Paper, which would have incorporated the key Sustainable Development principle of applying “sound science” in decision making.

#### **Public Service Boards**

The proposals for Public Service Boards represent an important part of the structure that can ensure a coherent delivery and reporting framework to enable progress against the goals and measures. The Bill will need to ensure an alignment between national and local delivery through applying the same principles of decision making and focus on achieving long term goals and measures to national, local government and other public bodies.

#### **Swyddfa'r Comisiynydd:**

Cynnal Cymru - Sustain Wales  
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#### **Office of the Commissioner:**

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A Welsh Government  
Sustainable Development  
Charter Signatory

# Peter Davies

## Comisiynydd Dyfodol Cynaliadwy

### Commissioner for Sustainable Futures

As Commissioner I have been conscious of the variable approaches of the current structure of Local Service Boards and welcome this section of the Bill. I particularly welcome the presence of Natural Resources Wales as a core member of the Service Board, the requirement to invite representation from the voluntary sector and the strengthening of democratic accountability through the role of Local Authority Scrutiny Committees.

The proposed new Commissioner has a key role in supporting and providing a critical analysis of Wellbeing Plans and the reporting by Public Service Boards, to ensure that the framework of the Bill is being applied effectively.

However while I support the importance of a national framework, it must reflect the needs and aspirations of local communities. There is a critical role for community or neighbourhood based plans that can build from local needs but can relate to national goals. This must be fully recognised and supported in the approach to creating the wellbeing plans of the Public Service Boards, particularly as it is envisaged that these will increasingly cover larger geographic areas.

#### Commissioner's function

Finally I want to focus on the role and function of the independent statutory Commissioner for Future Generations.

The proposals represent a significant strengthening of my current function, which has been part time, with no legal powers and no direct office function. There has also been a significant strengthening of the role from that envisaged in the initial White Paper. There is significant international practice in respect to similar functions, which I know has been considered in the design of the role. However I would still make the following points:

- There is a strong case that the appointment and scrutiny of this role is undertaken through the National Assembly as this will exemplify the independent nature of the Commissioner.
- The Bill also needs to provide greater clarity on the process by which the Commissioner can instigate investigations and response required.
- The Advisory Panel for Commissioner needs to be a strong multi stakeholder forum to provide advice and support, adding weight to the Commissioner's reports.
- The relationship of Commissioner and Wales Audit Office will need to be strengthened as is central to the concept of a strong Commissioner.
- Together, both the advisory panel and a close link with WAO will provide a 'check and balance' of the Commissioner's function to ensure a strong respected Commissioner function and obviating the danger of a Commissioner either being ignored, subject to influence of individual lobby groups or being perceived as having specific personal agendas. This is particularly

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# Peter Davies

## Comisiynydd Dyfodol Cynaliadwy

### Commissioner for Sustainable Futures

important as unlike other Commissioners, a Commissioner for Future Generations does not have an identifiable constituency to whom they will be currently accountable.

- Critically the Commissioner's role needs to be solutions focused, providing a capacity to convene competing interest groups, undertake independent reviews to support decision making. There is a danger that the office becomes overwhelmed with the processes associated with overseeing compliance across Public Service Boards

The Bill will not be a silver bullet that will address all our problems or make difficult decisions easy. It will though introduce mechanisms that improve our governance and decision making for the long term, so providing a better chance of meeting the intergenerational challenges that are beyond one term of Government and need the engagement of wider society. There will need to be clear connectivity with other legislation and alignment with decision making across the public sector.

I am very happy to provide more details on the points raised above, and look forward to meeting the Committee on September 25<sup>th</sup>.

Yours sincerely



**Peter Davies**  
Comisiynydd Dyfodol Cynaliadwy  
Commissioner for Sustainable Futures

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National Assembly for Wales  
Environment and Sustainability Committee  
WFG 62  
Well-being of Future Generations (Wales) Bill  
Response from Climate Change Commission for Wales



4 September 2014

Dear Chair

**Consultation: Well-being of Future Generations (Wales) Bill**

The Climate Change Commission for Wales welcomes the opportunity to respond to the Committee's inquiry on this Bill; our key message is the need to emphasise the **importance of strengthening specific references to climate change measures** within the Bill in order to drive our emission reduction and adaptation performance.

The Climate Change Commission for Wales has already written to the Minister (in May) to outline its support to the Committee on Climate Change's [recommendation](#) that '**setting a statutory underpinning to Wales' climate change targets** could help to provide certainty to policy-makers, businesses, investors, and the wider society in Wales and strengthen incentives to reduce emissions'.

We also believe that it is imperative that the structure of the Bill, in particular the goals, measures and principles, **set the framework for tackling climate change across the public sector**. Climate change should be included within the measures of progress in the Bill, extending this requirement to a duty on Public Service Boards to set targets in line with accepted global requirements.

As the Interim Report from the pilot National Conversation on the 'Wales we Want' (July 2014) identifies, when people were asked to list potentially critical issues for the future of Wales, five themes stood out with climate change and the natural environment receiving the most votes (69.5%).

A more detailed response on the issues identified within your "terms of reference" will be shared with the Committee during my evidence session on the 25<sup>th</sup> of September, and this will be informed by a discussion with the Commission members on the previous day. However some key points that we'd like to highlight are as follows:

**Goals & Measuring progress:**

Within the current Well-being goals there is no specific reference to climate change and no recognition of the 'global systems' perspective, our international impacts or responsibilities, or 'environmental limits'.

In terms of measures for climate change, indicators would need to cover territorial emissions, adaptation and carbon footprinting<sup>1</sup>. For the measure of Wales' carbon footprint regular ecological footprint research needs to be undertaken. Welsh Government is yet to publish the most recent research undertaken on this.

Currently Wales is the only UK devolved nation not to have or be seriously considering statutory climate change targets. Using legislation to push environmental action has already proven successful in Wales and we feel that a stronger approach should be called for to deliver climate change action.

These targets should be supported with a package of measures, such as:

- Developing an action plan every 5 years to achieve these targets
- A requirement for an emission impact assessment on large scale infrastructure and strategies
- A duty on the public sector to contribute to these targets
- Measuring the emissions impact of annual budgets

A mixture of amended goals, targets within the Bill and activation of Welsh specific duties under the Climate Change Act could provide a package of legislative measures to help accelerate action in Wales. We would be happy to advise further of how these could be integrated into the current proposals for the Wellbeing of Future Generations Bill.

### **Role of Future Generations Commissioner for Wales**

The remit and responsibilities of the Future Generations Commissioner should include climate change and ongoing support for the Climate Change Commission. We also feel that there is a need to include a duty for Welsh Government and/or the Future Generations Commissioner to set targets for the Welsh Government and public sectors to report on climate change mitigation and adaptation.

The Welsh Government is currently undertaking a 'Refresh' of its Climate Change policy – a statement is expected in the autumn by the new Minister and this provides a significant opportunity to demonstrate continued leadership on climate change. The Commission would urge the Refresh to go beyond a high level statement of intention and consider a commitment to statutory targets in the forthcoming legislation. Without this commitment to deliver on its political ambition, Wales is in real danger of falling behind other nations in the UK and Europe.

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<sup>1</sup> The carbon footprint refers to emissions that are associated with the consumption spending of UK residents on goods and services, wherever in the world these emissions arise along the supply chain, and those which are directly generated by UK households through private motoring etc. These emissions are often referred to as "consumption emissions" to distinguish them from estimates relating to the emissions „produced“ within a country's territory or economic sphere. To find out what effect UK consumption has on GHG emissions we need to take into account where the goods we buy come from and their associated supply chains.

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Yours sincerely



Peter Davies  
Chair, Climate Change Commission for Wales

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**Environment and Sustainability Committee**  
**WFG 16**  
**Well-being of Future Generations (Wales) Bill**  
**Response from Cynnal Cymru – Sustain Wales**

**Cynnal Cymru – Sustain Wales**  
**Response to the**  
**Environment and Sustainability Committee's consultation**  
**for a Well-being of Future Generations (Wales) Bill**

**Background**

In April 2012, Cynnal Cymru – Sustain Wales won a major tender from the Welsh Government, to assist in the development of, and engagement around, a new proposed Sustainable Development Bill. Since the contract inception, Cynnal has been helping the Welsh Government in many ways: on the Welsh Government's behalf, we run the Climate Change Commission for Wales. In a similar vein, we run the Sustainable Development Charter and we service the office of the Commissioner for Sustainable Futures. We set up and administered the launch of the Wales We Want national conversation and run both the web site and the further development of the National Conversation.

With regard to the Bill, we have provided the Secretariat for the Reference and Advisory Group together with its various sub committees as well as disseminating the output emerging from the Group.

**Commentary**

The Bill now sits with the Senedd. We welcome the wish of the Environment and Sustainability Committee to further improve and hone the Bill under Scrutiny.

No country in the world has put into place such a relevant and important piece of legislation to safeguard present and future generations. For this, the Welsh Government is to be congratulated that there is such a Bill. We welcome that the Bill as presented remains a framework, a process whereby it demands of those affected by it, that all decisions be made, looking through the prism of sustainable development, with the vision of achieving a sustainable Wales. That must not be lost: our belief, therefore, is that, throughout the scrutiny process, the framework process must be maintained, indeed strengthened.

There is a possible implication with regard to how the naming of the Bill is perceived: the Bill states “ensure that the governance arrangements of public bodies for improving the well-being of Wales take the needs of future generations into account”. This is to be praised but there is a risk that, unless the Bill makes clear that it is to take action now, for current generations as well, some may put off taking the necessary action in face of current priorities. “Future generations” might convince some that action *now* can be delayed. Clearly, it cannot and no doubt the Scrutiny process will make that plain.

The inclusion of a series of goals is welcomed, as this in part reflects the major changes taking place under the aegis of the United Nations as it moves from the Millennium Development Goals (MDGs) to the Sustainable Development Goals (SDGs). SDGs offer the way for world nations to reflect, and work towards, outcomes that better portray the actions necessary to address the many challenges facing the world currently, not least inequality, climate change, poverty, deprivation, environmental degradation and failures in education, employment, training together with a host of others. As an

aside, the new Bill has in it 6 goals to be achieved: those working on the UN SDGs have presented 17 – and that is the rub when considering the new Bill here in Wales, but more of that below.

## Critique

As stated, we welcome the intention of the Welsh Government that the new Bill proposes. Setting a core, or central, organising principle, for sustainable development for the public sector in Wales is essential and to be supported. However, we have a concern that there is no clear definition of sustainable development on the front of the Bill. It is evident that people, in general, are themselves not certain regarding what this is but also, if we do not specify what we are aiming towards, how will we know if and when we get there? An additional point is that, if the Sustainable Development definition is not firmly stated, it would be much easier for this to be watered down under a different legislature. The Welsh Government already has a good definition at its fingertips, that contained within the excellent “One Wales, One Planet” report. We suggest that this be used as the overriding lodestone, the overall Vision that drives and guides the whole Bill. This we suggest will in turn help to ensure all see that this Bill is indeed an over-arching Bill, an umbrella for all other legislation governing Wales. Without this change, the Bill can be criticised as being weak, not least by using phrases such as “seeking .. to ensure sustainable development”. The duty needs to be made clear and strengthened. “Seeking” is simply not strong enough.

In terms of the placing of this Bill within the Wales hierarchy of would-be and existing legislation, it is clear that a Bill covering sustainable development must be at the apex of any other legislation. For sustainable development to be at the core of government thinking and decision making, all other legislation must be subservient to that. This needs to be better stressed in the Bill before us or it runs the risk of being in a silo, of not being given the priority it needs to be. For example, there are several elements of legislation going through the system currently, including a new Planning Bill and a new Environment Bill: whatever the issues in and around both Bills, both should be “governed” by the Future Generations Bill. This needs to be made clear in the new Bill and in subsequent implementation.

The essence of the Bill, what it aims to achieve, has been presented in six goals as stated above. Regarding the proposed goals, as already mentioned, we welcome that these exist, but question if these are as they should be. We fear that there are gaps and, in turn, weaknesses which together will weaken the Bill both in terms of its impact and of its coherence. In addition, the goals are not consistent in how they are framed. There is a risk of ambiguity and an ability for the goals set to be seen as being achieved when, for many of us, they may not have been. At the heart of this, is that, of the six well-being goals, three are comparative. For example, Goal Three states “A healthier Wales” but the question is Healthier than what?... with no base line available, a slight improvement in overall health could suggest success in this goal. Even where the goal is not comparative, such as where Goal One appears to be more specific : “A prosperous Wales” – it needs backing up by what is meant by “prosperous”. The description attached makes no reference to the type of economy, and indeed type of employment, we wish to support. The Welsh Government commitment to so-called “green” growth needs to be highlighted here, supported as it is by the excellent CBI report on such growth.

An overall review of all the Goals by the Scrutiny process is strongly recommended by Cynnal Cymru – Sustain Wales to develop a less comparative approach or, if to be comparative, being clear as with what baseline this is being compared. We encourage the focus to be on less ambiguity. A goal should

be a goal, especially given the scale and the challenge faced by the public service bodies affected by the Bill.

We are concerned that areas vital to a sustainable community have not been included, or are stated insufficiently. The primary issue is of scope: we recognise and laud that this remains a framework Bill, but it misses much from that framework: it does not cover all public sector roles and responsibilities. Most importantly here, procurement, vital to a sustainable economy, is not addressed. Nor, added to this, is budget setting. Together, these would have the greatest effect on a sustainable economy for Wales and thus must be included, especially given that public sector procurement has such a vital role in the Wales economy. Not having this in the Bill suggests it is missing a vital element of helping to create a sustainable Wales.

Cynnal Cymru – Sustain Wales, although focussed clearly on Wales, fully recognises the vital role of Wales in a wider world: this Bill does not sufficiently recognise this. The lack of a global dimension weakens the Bill and will damage its status in the wider world. If we are, through this Bill, to make a real difference and become an exemplar on the world stage, this must be addressed. Climate Change has a poor profile in the Bill. In *The Wales We Want* conversations, Climate Change is seen as a crucial priority. The Bill, both to reflect Wales' community wishes *and* a global priority, must be a key priority in the Bill. Targets for relevant and challenging reductions in emissions of the gases that contribute to global warming must be stressed. We recognise that this is not a Bill for detail – it is a framework – but without a framework for Climate Change, it is a lesser Bill.

The issue of governance of the implementation process is, we fear, weak and liable to potential changes in emphasis by a future Welsh government. Of specific concern is that of the new Commissioner. The Bill has presented that this is a role appointed by, and answerable to, the Welsh Government: we feel that this should be answerable to the Senedd, not least by so doing, it is then seen to avoid the risk of interference, and improve transparency. The Bill identifies a range of posts to support the Commissioner. We must declare an interest here in that we have undertaken a similar role for the existing Commissioner for Sustainable Futures but feel, strongly, that this Office should be a separate body, fully funded by the government to ensure that, not only is it independent, but it is seen to be independent. There is precedent akin to how the Office of the Auditor General is funded and governed. We are also unsure if the proposed budget will be enough for the Commissioner to undertake all the proposed roles, not least the investigative element of what s/he will be undertaking. This element, in turn, needs to be strengthened with the “critical friend” element being brought more to the fore. If not, the risk is that no real change will be evidenced, not least if and when the Commissioner offer criticism to the Welsh government itself.

Finally, the Bill, quite clearly, is focussed on the public sector. Sadly, some elements of the quasi-public sector, such as housing associations and both further and higher education, no longer feature in the Bill as presented. We regret that, not least as the three elements are vital if we are to achieve a sustainable Wales.

In that context, and with again a declaration of interest, we recognise the role played by the Sustainable Development Charter as being a vehicle in which those not affected by the Bill, such as the private and voluntary sectors, are able to commit to making sustainable development a core activity for what they do and how they do it. This aids the work of the Welsh Government to help us all move towards a sustainable Wales.

**Cynnal Cymru – Sustain Wales**

*via*

**David Fitzpatrick**

*Chief Executive*  
ceo@cynnalcymru.com

# Agenda Item 5

National Assembly for Wales  
Environment and Sustainability Committee

WFG 12

Well-being of Future Generations (Wales) Bill

Response from UK Environmental Law Association's Wales



**The UK Environmental Law Association's Wales Working Party  
Evidence Submission on the Well-being of Future Generations Bill  
to the  
National Assembly for Wales's Environment and Sustainability  
Committee**

## **Executive Summary**

1. The UK Environmental Law Association (UKELA) is pleased to have the opportunity to submit its views and comments to the National Assembly for Wales's Environment and Sustainability Committee on the contents of the Well-being of Future Generations Bill.
2. UKELA aims to make the law work for a better environment and to improve understanding and awareness of environmental law. Its members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. UKELA attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors. The Association prepares advice to UK Governments with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared by UKELA's Wales Working Party with input from its Planning and Sustainable Development Working Party.
3. Overall, UKELA is supportive of the aims of this Bill and the proposals contained therein. It commends the Welsh Government for taking steps to embed the principle of sustainable development in the work of the public sector in Wales in the interests of future generations. UKELA is also of the view that a number of changes to the current Bill would strengthen implementation once it becomes legislation; afford equal weight to the environment alongside economic and social considerations; and help ensure accountability and effective delivery of

the aim and goals. The following points are put forward for consideration:

- A clear definition of sustainable development should be included and the following is put forward for consideration:

*“Sustainable development means enhancing the economic; social; and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations in ways which:*

*Promote social justice and equality of opportunity; and*

*Enhance the natural and cultural environment and respect its limits using only our fair share of the earth’s resources and sustaining our cultural legacy.”*

[Paragraph 9]

- The inter-relationship between sustainable development and well-being needs to be specified in the Bill.

[Paragraph 10]

- The wording in Sections 6 (1) should be changed to:

*“Each public body is to pursue the common aim by fostering the achievement of well-being goals”.*

[Paragraph 11]

- Consideration should be given to widening the scope of public bodies covered by the Bill.

[Paragraph 12]

- The definition of Well-being goals and their description need to be revised to take account of the full range of issues necessary for sustainable development, in particular inclusion of reference to living within environmental limits and using only a fair share of the earth’s natural resources.

[Paragraph 13]

- In Section 6, the environment goal and descriptor should be re-drafted to ensure that more prominence is given to protection and enhancement of the environment as a way of ensuring the well-being of future generations.

[Paragraph 14]

- Consideration should be given to including references to environmental principles as enshrined in the Treaty on the

Functioning of the European Union and EU secondary legislation.

[Paragraph 15]

- Sections 8 (1) (b), 37 (4) (b) and 39 (1) should be supplemented by drafting as to where responsibility lies for assessing reasonableness as to the requirement to “take all reasonable steps.....” and the nature of that assessment.

[Paragraph 16]

- The Future Generations Commissioner and the Advisory Panel should be appointed by the National Assembly for Wales, rather than Welsh Ministers to ensure independence for Government and impartiality (Section 16 (2).)

[Paragraph 17]

- The general duty of the Commissioner needs to be clarified and strengthened. It is suggested that the following should substitute the drafting in Section 17:

(a) *To uphold the sustainable development principle by-*

- (i) *acting as the guardian of the interests of future generations, and*
- (ii) *ensuring that public bodies take greater account of the long term impact of the things they do*

[Paragraphs 18 and 19]

- Consideration needs to be given to including more references to climate change throughout the Bill, in particular in the goals. The Commissioner should also have specific responsibility under Section 18 (1) (d) for advising on sustainable development and climate change.

[Paragraph 20]

- In Section 20, UKELA is concerned about the obligation on public bodies that “must take all reasonable steps” as this may provide scope for a public body to reject a recommendation or to take an alternative course of action in response to a recommendation.

[Paragraph 21]

- Under Section 22, UKELA suggests that the legislation should be amended so that the Commissioner has a general duty to consult a wide range of bodies and individuals about the

Commissioner’s work and a specific duty to consult on the contents of the annual report.

[Paragraph 22]

- In respect of Section 24, UKELA is of the view that representatives of local authorities, the economy and the voluntary sector should be statutory members of the Future Generations Commissioner’s Advisory Panel and that an amendment to this effect should be made.

[Paragraph 23]

- As regards Section 24 (2) consideration should be given to providing for all advisory panel members to be able to nominate an alternate.

[Paragraph 23]

- The Bill should make it clear where accountability lies for ensuring effective implementation of local well-being plans.

[Paragraph 25]

- In Sections 37 and 39, “*take all reasonable steps.....*” should be replaced with “*.....must foster the meeting of those objectives....*” and “*.....must foster within its area the meeting of objectives.....*” respectively.

[Paragraph 26]

## **DETAILED ANALYSIS**

### **Overview**

4. UKELA welcomes the stating of the purposes and aims at the commencement of the Bill. This should assist with interpretation of the Act at the time of implementation. It also notes that this is relatively unique in UK legislation. UKELA is supportive of the purpose of the Bill and applauds the Welsh Government’s quest to further its commitment to sustainable development by embedding the principle of sustainable development into the work of the public services in Wales. The Welsh Government, through this legislation, has the opportunity to lead globally in developing a public services culture in Wales that puts sustainable development at the heart of policy making and service delivery.
5. The quality of the environment is fundamental to the well-being of current and future generations in terms of their health, and social and economic well-being. Protection and enhancement of the environment should, therefore, be the central plank of the legislation so it is disappointing that it is not particularly prominent in the draft Bill. UKELA is concerned that there may be a danger that the social and



economic pillars of sustainable development could dominate, particularly in view of the prominence given to prosperity. If the social pillar pursues well-being objectives that are dependent to a significant extent on the growth of GDP then inevitably the social and economic pillars of sustainable development will be capable of dominating the environment pillar. Sustainable development requires solutions that achieve a balance between the three pillars and make the most of synergies between them.

6. The landscape and environment of Wales is exceptionally diverse and beautiful, and should be protected and enhanced for future generations. UKELA is further concerned that the Bill, as currently drafted, does not give sufficient prominence to the importance of the inherent value of the environment as opposed to its functional qualities. Nonetheless, without a healthy, thriving natural environment Wales will not be able to prosper economically, the health of its people would suffer and our culture, heritage and communities would be at risk. The environment underpins the health and well-being of communities, by providing resources and assets that have the potential to produce value and service the Welsh economy. In UKELA's view, the importance of the environment is underplayed and appears to be at odds with the proposals for the Environment Bill, which is concerned with natural resource management to ensure that our landscapes, water, land and other living resources are maintained and enhanced to support the development of communities and businesses. Protection and enhancement of ecosystem services is fundamental to the well-being of future generations. The Well-being of Future Generations Bill and the proposals for the Environment Bill are fundamental to sustainable development in Wales. It is important, therefore, that there is consistency and complementarity in terms of their key principles and policy objectives.
7. Another concern relates to the Bill's focus on processes, rather than the achievement of desired outcomes for the environment that will support healthy living, economic development, preservation of culture and communities for the people of Wales. The absence of outcomes in relation to the goals is worrying, particularly in the light of the report of the recent United Nations High Level Political Forum<sup>1</sup> which states that sustainable development goals are to be accompanied by targets focused on measurable outcomes.
8. The Welsh Government has the chance, through this Bill, to be innovative and unique in the way it takes forward sustainable development. However, the Bill in its present form is not particularly pioneering as most of what it contains has precedents in other international legislation. UKELA is offering its comments below to

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<sup>1</sup> [www.sustainabledevelopment.un.org/focussdgs.html](http://www.sustainabledevelopment.un.org/focussdgs.html) Introduction to the Proposal of the Open Group for Sustainable Development Goals U.N. 2014 (19 July 2014) Preamble @[18]

support the development of legislation that is truly ground breaking to serve the people of Wales and serve as a model for other administrations.

**Purpose, Aim, Sustainable Development Principle and Classification of Public Bodies**

9. The purpose of the Bill is commendable. It is fundamental for the Bill to achieve its purpose that it contains an appropriate definition of sustainable development. UKELA notes that the definition in the draft Bill is a modified and, in our view, a somewhat compromised version of the Brundtland sustainable development definition. It is disappointing that a definition of sustainable development in the context of the Welsh public service has not been included. The absence of a clear definition of sustainable development in respect of Wales could lead to varying interpretations of what the principle means in practice and may not achieve the overall aim of improving the economic, social and environmental well-being of Wales. UKELA believes that it would be better to adopt the definition of sustainable development included in “One Wales, One Planet”<sup>2</sup> which is as follows:

*“Sustainable development means enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations in ways which:*

*Promote social justice and equality of opportunity; and*

*Enhance the natural and cultural environment and respect its limits using only our fair share of the earth’s resources and sustaining our cultural legacy.”*

This is a more comprehensive definition of sustainable development and one with which the Welsh public sector is already familiar. The definition also makes clear the importance of respecting environmental limits to the achievement of sustainable development.

10. It is recognised that the well-being duty reflects broadly that for local authorities which is enshrined (for Wales only, following the Localism Act 2011) in section 2 of the Local Government Act 2000. However, the bringing together of well-being with sustainable development could lead to a lack of clarity amongst those interpreting the legislation as to whether decisions are to achieve sustainable development or well-being, or where the balance should lie between the two concepts. It is important to specify the inter-relationship between sustainable development and well-being in the legislation, as this will provide the

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<sup>2</sup> <http://wales.gov.uk/topics/sustainabledevelopment/publications/onewalesoneplanet/?lang=en> One Wales: One Planet – The Sustainable Development Scheme of the Welsh Assembly Government. May 2009.

foundation for the follow up guidance, which should aim to ensure that those implementing the duty will have a clear understanding of the relationship between the two concepts. However, if the sustainable development definition suggested above in paragraph 9 is adopted, the connection between sustainable development and well-being would be clearer.

11. UKELA's main concern in relation to the duties for improving well-being is the relative weakness of the terminology in Section 6 (1), i.e. "Each public body is to pursue the common aim by seeking to achieve....." This is an easy duty to discharge and in legal terms would be difficult to challenge if a particular body was not diligent enough in carrying out their duties. It is suggested that an amendment be made to change the wording to:

*"Each public body is to pursue the common aim by fostering the achievement of the well being goals"*

would place a stronger duty on public bodies to achieve the legislation's intentions. As illustrated in Sections 6 (i) and 17 (a), implementation is highly contingent on the loose language contained in the Bill. It is important that the drafting is tight and clear to ensure there is no scope for avoiding taking forward the necessary commitment of sustainable development in order to ensure the well-being of future generations.

12. It is disappointing that the classification of public bodies in the Bill is quite narrow and does not cover the full range of public bodies operating in Wales or even those listed in the White Paper. In particular, UKELA is disappointed at the omission of Higher Education Institutions and community councils, as they are considered crucial to the achievement of sustainable development. Welsh universities are well placed to introduce sustainable development into curricula for numerous relevant course programmes, whilst community councils have an important role to play in ensuring sustainable development is embedded at local levels. The failure to include as wide a classification of public bodies as possible will inevitably lead to a disjointed approach to driving forward sustainable development, as those outside the scope of the legislation will not have the same impetus to achieve its overall aim.

### **Well-being Goals**

13. UKELA is of the opinion that neither the definition of well-being goals nor their descriptors address the full range of issues necessary for progress towards sustainable development to be assessed. It is possible that these goals may have been based on the National Well-being indicators published by the Office of National Statistics, only four of which relate to the environment. Collectively, these indicators amount to a narrow concept of sustainable development and UKELA is concerned about the considerable scope for their misinterpretation. The goals are also very similar to the vision of sustainable development in

“One Wales: One Planet”, the Welsh Government’s Sustainable Development Scheme, with the exception being a reference to environmental limits and use of natural resources. UKELA considers that reference should be included to respecting environmental limits and using only our fair share of the earth’s resources.

14. UKELA believes that the environment goal 2 in Section 6 simply referred to as “A resilient Wales” and described as “aiming for a bio-diverse environment with healthy functioning eco-systems that support social, economic and ecological resilience” is inadequate. The use of the phrase “A resilient Wales” is not particularly meaningful to most people and the accompanying description does not reflect the goal in any meaningful way. The word “resilience” implies withstanding shock. The dictionary definition refers to “being capable of regaining original shape following some sort of deformation” or “a person recovering from hardship or illness”. It follows, therefore, that this terminology will not be a readily understood goal in relation to protection of the environment and consequently technical interpretation may be difficult. Furthermore, UKELA is of the view that the goal and its description as currently drafted imply maintaining the status quo, rather than improving the environment for future generations. This is particularly the case, given the use of the word “support” in the description, which indicates an intention to sustain, rather than enhance, the environment in accordance with both the precautionary principle and also the higher level environmental principle enshrined in Article 3 of the Treaty on the Functioning of the European Union, referred to in the following paragraph 15. It is also important that this legislation supports the reforms that have been proposed for environmental law in Wales. The proposals in the Environment White Paper aim to ensure the “maintenance and **enhancement** of Wales’s natural resources”; we believe it would be better to use this terminology here.
15. The new approach to applying the sustainable development principles in Part 2, clause 8 (2) is helpful and unique in UK legislation. However UKELA is concerned generally about the absence throughout the legislation of reference to the environmental principles enshrined in the EU Treaty and the practices and standards incorporated in EU secondary legislation on the environment. In particular, there is no mention of the precautionary principle and the overarching EU principle that requires “a high level of protection and improvement of the quality of the environment” (Article 3 of the Treaty on the Functioning of the European Union). It is evident, therefore, that the goals and their descriptors present too narrow a framing of sustainable development.
16. UKELA is concerned about the wording in Section 8(1) (b) which states that [A public body must] “take all reasonable steps (in exercising its functions) to meet those objectives in accordance with the sustainable development principle”. It is unclear as to who will be assessing reasonableness and whether such an assessment would be subjective (i.e. does the relevant public body itself consider them reasonable) or

objective (i.e. would a [hypothetical] reasonable public body in the same circumstances consider the steps reasonable). Moreover, it would be helpful in legislative terms if it could be made apparent whether this is “reasonableness” in the common public law ‘Wednesbury’ sense or whether it is the steps themselves which must be reasonable.

### **The Future Generations Commissioner**

17. The appointment of the Commissioner (Section 16) by Welsh Ministers could give rise to perceptions of lack of independence and the appointment possibly being open to political interference, particularly in the light of clause 7 (2) of Schedule 2 which gives Welsh Ministers the power to dismiss the Commissioner. In the interests of impartiality and independence, UKELA is of the view that the appointment of the Future Generations Commissioner should be made by the National Assembly for Wales, rather than Welsh Ministers. Similarly, in order for the Commissioner’s Advisory Panel to be free from political influence, UKELA suggests that its appointments under Section 22 (2) should be made by the National Assembly.
18. The general duty of the Commissioner (section 17) is unclear in relation to whether the duty is to monitor the extent to which the well-being objectives are being met, or simply with respect to sustainable development. This is a fundamental point that needs to be addressed. UKELA is concerned that, in practice, the Commissioner will have limited powers and no wider powers to investigate areas of concern or possibly even question public bodies on their performance in relation to the legislation’s aim.
19. As mentioned above in paragraph 11, UKELA is of the view that the wording “seek to safeguard” in the specification of the duty of the Commissioner should be strengthened by changing to “foster the safeguarding of ...” as in legislative terms the words “seek to” is a very loose requirement and, in effect, an aspiration only. There is a danger that a Commissioner could take a narrow view of the requirement and consequently be insufficiently instrumental and effective as possible in helping to ensure that public bodies achieve the well-being goals. It is suggested that a more robust wording for the Commissioner’s role could be as follows:
  - (a) *To uphold the sustainable development principle by-*
    - (iii) *acting as the guardian of the interests of future generations, and*
    - (iv) *ensuring that public bodies take greater account of the long term impact of the things they do*

However, if the drafting of the Bill is amended to ensure a role for the Commissioner in respect of meeting the well-being objectives, rather

than sustainable development *per se*, the above suggested amendment will need to be adapted accordingly.

20. In 18 (1) (a), the reference to providing advice on climate change is noted. However, apart from mention of a low carbon emission economy in the goal of a prosperous Wales, there is no further reference to climate change elsewhere in the Bill. The single mention of climate change is indicative of a parochial approach. Overall, the Bill is very specific to Wales and its administrative and physical boundaries; we believe that account should be taken of Wales's impact on the UK and international situations and its contribution to the global effort. If it is envisaged that the Commissioner is to play a meaningful role in relation to climate change, UKELA suggests that this needs to be evident in the drafting, possibly by inclusion of a particular reference in the goals. As regards, 18 (1) (d), UKELA suggests that this should also include reference to advice being given on the sustainable development principle, as well as achievement of the well-being goals.
21. In respect of section 20 on the duty to follow the Commissioner's recommendations, UKELA is concerned again about the use of the wording "must take all reasonable steps". As currently drafted, a public body can avoid compliance with recommendations if it is satisfied on its own account that it has taken into consideration the guidance from Welsh Ministers. Therefore, publication of a response to the Commissioner's recommendations does not guarantee their adoption. The current wording could lead to the power of the Future Generations Commissioner being undermined and, even more importantly, dilute accountability for delivering the goals, whilst taking account of sustainable development. UKELA believes that the section provides scope for a public body to either reject a recommendation or to take an alternative course of action in response to a recommendation. This is worrying, particularly as the circumstances under which these courses of action can be taken are unclear.
22. Section 22 refers to the Commissioner's duty to consult the advisory panel, public bodies and other organisations and individuals. This is to be done before the annual report is published, but the purpose of the consultation is unclear. UKELA is unclear on the interpretation of public bodies in this context. If the legislation intends to empower the Commissioner to consult the wider public sector and non-governmental organisations, the drafting should make this clear. UKELA also suggests that the duty to consult should cover two aspects: first, a general duty to consult a wide range of bodies and individuals about the Commissioner's work and secondly, a specific duty to consult on the contents of the annual report.
23. The membership of the Commissioner's advisory panel (Section 24) covers the interests of children, older people, the Welsh language, public health and the environment. Although it is noted that Welsh Ministers have the power to appoint other persons, UKELA is concerned at the

absence of a member representative of the economy and suggests that the Bill should refer specifically to an individual, such as the Chair of the Confederation of British Industry in Wales, as a statutory advisory panel member. This will ensure a balance between social, economic and environmental interests. In the light of the key role public service boards and local authority scrutiny committees will have in the implementation and governance processes, UKELA considers that there should be representation from local authorities on the advisory panel. The voluntary sector also has a major part to play in helping achieve the desired legislative outcomes and should be represented on the advisory panel. UKELA, therefore, suggests that amendments to this effect should be introduced. UKELA has noted an inconsistency in Section 24 (2) whereby there is no provision for delegating for alternates in respect of the Commissioner panel members ( (2)(a), (b) and (c)).

### **Public Service Boards**

24. UKELA welcomes the requirement for local integration and is pleased to note that the proposed legislation details how this integration is to be brought about. Nevertheless, it needs to be recognised that the role of overview and scrutiny committees will be crucial to the success and effectiveness of the Local Well-being plans.
25. UKELA believes that the Bill should be amended to specify lead responsibility for accountability on implementation of local well-being plans. As currently stated (Section 44), annual progress reports detailing implementation are to be sent to overview and scrutiny committees, as well as to Welsh Ministers, the Auditor General Wales and the Future Generations Commissioner. However, a particular weakness is the failure to state where ultimate power for ensuring implementation of plans is effectively carried out.
26. In respect of local well-being plans (Section 37), public services boards, in the same way as public bodies, are expected to “take all reasonable steps.....”. The same argument set out in paragraph 15 above, applies here. It also applies in relation to community councils (Section 39). UKELA proposes that “take all reasonable steps.....” should be replaced with the stronger requirement of “.....must foster the meeting of those objectives.....” and “ .....must foster within its area the meeting of objectives on the local well-being plan that has effect in its area”, respectively. UKELA is concerned that, whilst community councils with gross income or expenditure over £200k p.a. are required to take steps towards meeting the objectives set out in local well-being plans, such bodies will not be subject to the general duty.

Professor Robert Lee    Dr Haydn Davies    Dr Victoria Jenkins  
UKELA Wales Working Party



# Agenda Item 6

Cardiff Business School  
Environment and Sustainability Committee

WFG 66

Well-being of Future Generations (Wales) Bill

Response from Cardiff Business School

## Well-being of Future Generations (Wales) Bill

Evidence to the National Assembly Environment & Sustainability Committee

Prof Calvin Jones, Cardiff Business School

9/9/14

### Introduction

Following is a summary of my thoughts and concerns regarding the Well-being of Future Generations (Wales) Bill (hence FGB) as set before the Assembly in July 2014. My (brief) evidence draws on some 25 years of advising policymakers in Wales, and undertaking academic research on, economic development here, focussing particularly on energy, sustainable development, tourism and sport.

I have been unable to restrict myself to a critique of the Bill in isolation, despite the thrust of your inquiry, for reasons that will become clear.

### The Bill

In common with many other Welsh Government documents, strategies and policies the FGB is very good at outlining the principles for action and broad objectives (here largely for partner and to-be-created organisations and structures). It is very good on saying what *will* be done. What requires significant development (and quickly) are a number of areas:

- (1) **Conflicts and Synergies** – The objectives outlines in Table 1 of the Bill are interrelated, in interesting and complex ways. The actions an Authority might take to make Wales/a locality more 'resilient' may actually reduce 'prosperity' (encouraging use of more expensive but more local resources is a good example of this). There is no appreciation in the Bill (or in any wider Government policy) that these tensions exist. Table 1 just presents a list of 'things we'd like' with no appreciation that they are dimensions of the same socio-environmental landscape.
- (2) **Coherence** - There is no guidance on how overall coherence in movement towards objectives will be enabled. As, presumably, organisations will 'self-select' their area of concern and tools, there exists significant opportunity for organisations to hamper each other's progress. For example, Organisation A might construct (say) a new road or opencast mine in pursuit of its prosperity objective that impacts negatively on other organisations health or quality of life objectives in the same area.
- (3) **Supporting Conceptual Framework** – The above issues arise from the lack of any framing understanding of how Wales 'works' and how the economy, society and

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environment interact. The glacial progress toward an Ecosystems Services approach to policymaking might help here, but I suspect it may be way too late.

- (4) **Timescales** – Setting future wellbeing objectives for/within a Ministerial term is baffling. This gives no certainty for partner organisations or any space to enable transformative change. If this process cannot, somehow, be made independent of the electoral cycle it is hardly worth the candle.
- (5) **'Quality Assured' Approach** – The FGB laudably devolves responsibility for goal setting to partner organisations, but there is no indication of the origin and level of resources that will be allocated to ensure these organisations can undertake the complex evidence gathering (in terms of scenario building and futures as well as surveys) to ensure their objectives are reasonable, sustainable and practical. Without this extra evidence, one suspects that FGB requirements will be moulded into existing organisational objectives and result in little change in activity in reality. The Commissioner seems to be available only to scrutinise national indicators, but if she is to scrutinise all FGB plans and objectives, this will require a substantial office
- (6) **Future Trends** - Related to above Section 12, future trends report for Welsh Ministers, it is worth noting that the dedicated 'horizon scanning' capacity in Wales consists of one dedicated academic. One suspects that the default here will be to procure these reports commercially with therefore zero capacity building or increased engagement with/understanding of with the reality of environmental and economic change on the part of civil servants or Ministers
- (7) **Sanctions** – Nowhere here is there any indication of the sanctions facing Chief Executives or Ministers who fail in the duty of the Bill, or who fail to deliver their own wellbeing objectives. If failure here does not clearly lead to negative personal/career outcomes for responsible persons, there will be little incentive to upset applecarts and make real progress.
- (8) **Wider Institutional Change** - The Bill envisages the creation of Public Service Boards at LA level. Thought needs to be given as to whether there will be 22 of these to be merged when whatever happens following Williams happens, or will this happen post-any LA reorganisation? Similarly, no link from PSBs to City Regions is made despite the fact many objectives will in reality stand or fall at this spatial scale.

### **The Context**

Whilst the Bill is problematic in a number of areas, change and amendment is possible and to be expected. However, the context within which the Bill will be enacted is a far more fundamental concern. The following list some areas where I have particular worries.

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- (1) **Silos** – There is so far little indication that any Minister apart from Mr Cuthbert has any stake in the Bill or its vision. There are a number of instances of very recent policy pronouncements – the M4 relief road and the Green Economy Prospectus to give to examples – where responsible ministers are (or were) setting in train approaches and projects that would have decades long ramifications, fundamentally impacting on the nature and workings of the Welsh economy, but where FGB seemed to play no part in the decision process. Whilst the Bill is not yet law, it should not be beyond the wit of man (or woman) to prepare the policymaking process to make Bill-conformity easier.
- (2) **Past Progress**- The impact of long existing cross-cutting SD legislation & duties on Government approaches is difficult to discern. Real ‘successes’ in the field of sustainability are rare in Wales – the two highest profile, recycling targets and the plastic bag charge, arguably had more to do with the drive of a former minister than the impact of the Assembly’s SD duty. I cannot say that the Governmental context into which the FGB lands is better than that existing pre-2010 in terms of enacting cross cutting, transformative legislation. The impression one gets, personally and in gauging peers’ attitudes, is that WG is institutionally incapable of implementing cross-departmental programmes and policies.
- (3) **Goodwill** – Following closely from the above, it is my clear impression from my networks that since 2010 the current executive has frittered away the goodwill of a significant part of civic society, the third sector and NGOs in Wales – especially those who would be most helpful in working through the SD implications of the Bill. In a number of areas – M4 relief road; BREEAM standards for new housing; the effective capping of onshore wind capacity; Green Growth/economy interventions – the Government has rowed back from prior commitments; given very mixed signals on what are fairly clear environmental goods and bads; and been largely disinterested in collating or commissioning a robust evidence base for individual Ministers’ policymaking. I have serious concerns that this disillusionment will impact on the wider engagement with FGB, especially in organisations that are not directly tasked. This is an issue for Wales where civic society is ‘thin’ and much is done *pro bono*. Frankly, if the government, rather than you, had asked me to spend a morning preparing this document I would have only done so if paid for it. I am pretty sick of wasting my time sitting in WG hosted meetings, that turn out in retrospect to be at best, pointless make-work for the bureaucracy, and at worst, a way to keep NGOs and academics distracted whilst the big decisions are made.

In summary then, the Bill is a bit ropey in parts, but the real drivers of its success will be:

- (1) the capacity to develop appropriate and holistic objectives, across a range of organisations and fully evidence based;

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- (2) the ability to develop and implement long-term, consistent interventions at Government as well as partner organisations
- (3) the ability of Welsh Government to embrace the *spirit* of the Bill across all Ministerial portfolios

Unless there is significant institutional movement, and investment in research, data and evidence prior to enactment, none of these hurdles will be passed.

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*September 2014*

*Consultation on the Well-being of Future Generations (Wales) Bill*

**Introduction**

1. The Sustainable Places Research Institute is part of Cardiff University, which seeks to pursue the principles of sustainable development both in our engagement with external stakeholders and in the management of our internal operations.
2. Founded in 2010 the £3.5m Sustainable Places Research Institute is a multidisciplinary Research Institute operating across all three Colleges of Cardiff University. A team of ten Professors, including the current Director Professor Terry Marsden, have been brought together to act as Principal Investigators on a series of research programmes working with six Research Fellows and three Research Associates. The Institute is now entering a second phase of development, which will consolidate and strengthen the interdisciplinary in each of its four proposed research programmes: Sustainable Communities; Landscapes, Eco-systems and People; Health, Infrastructure and Well-being; and Adaptive Governance for Social and Ecological Transitions. There are also plans to further develop existing working relationships with partners locally and internationally. In addition to the Research Team, there is a core team of four staff supporting the wide range of research and engagement activities and the growing number of PhD projects at the Institute.
3. Sustainable development research is a key strength across a range of subject areas. This is reflected in a number of major funding awards and the establishment of our cross-discipline [Sustainable Places Research Institute](#).

## Summary

4. The Bill lacks a clear and robust set of definitions of the key concepts of: Sustainable Development, Future Generations and Well-being. Although there are benefits of not providing such definitions, not least in terms of maintaining the flexibility to take account of future scientific developments and changes in societal aspirations and priorities, the failure to provide conceptual clarity can result in a lack of common purpose and allow all and any policy responses to be construed as contributory.
5. The Bill fails to adequately address the grand challenges of our time – we are concerned in particular about the lack of reference to climate change mitigation and adaptation. This is a missed opportunity, as many studies have shown that addressing climate change can promote synergies that can, in turn, help to address several of the other critical issues we are now facing, such as in relation to biodiversity loss, energy transitions and the maintenance of ecosystem service delivery.
6. Too much emphasis is placed on institutional and administrative process and procedure to the detriment of consideration of the substantive aims and objectives of the Bill. We argue that there is a lack of direction in the Bill, which could result in a failure of steering within an organisation, resulting in different and not necessarily compatible interpretations of the duty placed upon them.
7. We have concern regarding the potential for many different interpretations of the well-being goals as set out, making the task of monitoring and assessing progress much more difficult. Those further along the multi-level chain of public administration may struggle to identify appropriate actions.

## Response:

### ***How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector;***

8. The Explanatory Memorandum states that *'The Bill will give effect to the Welsh Government's commitment to putting sustainable development at the heart of government; creating a resilient and sustainable economy that lives within its environmental limits and only uses our fair share of the earth's resources to sustain our lifestyles.'* The Bill as it stands fails to demonstrate how it will do this, especially with regard to placing the duty upon the

Welsh Government. A Lack of a clear definition undermines the duty as it currently stands. While sustainable development can be a difficult concept to grasp, due to its complex and interacting dimensions, acknowledgement of this very characteristic would make for a more robust Bill, one that shows awareness of the complexity of issues that are invoked when development and environment are coordinated. By bringing together the range of key stakeholders in public life in Wales, who would be subject to a duty, this would enable more joined up thinking across the broad spectrum of issues in public life for the long term and address the collection of challenges we now face.

9. Research has pointed out that sustainable development is best seen as a political construct, similar to concepts such as ‘democracy’, ‘liberty’ and ‘social justice’. For concepts such as these, there is both a readily understood ‘first level meaning’ and general political acceptance, but there also lies a deeper contestation. In liberal democracies, the debates around such contested concepts form an essential component of the political struggle over the direction of social and economic development, that is, of how to make trade-offs between competing objectives and steer sustainable change. Substantive political arguments are part of the dynamics of democratic politics and the process of conscious steering of societal change. Recognition of this and the complexities involved in trade-off management in the Bill is important, as it can stimulate creative thinking and practice.

***The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the areas –***

- ***The “common aim” and “sustainable development principle” established in the Bill and the “public bodies” specified;***
- ***The approach to improving well-being, including setting of well-being goals, establishment of objectives by public bodies and the duties imposed on public bodies;***
- ***The approach to measuring progress towards achieving well-being goals and reporting on progress;***
- ***The establishment of a Future Generations Commissioner for Wales, the Commissioner’s role, powers, responsibility, governance and accountability; and***
- ***The establishment of statutory Public Services Boards, assessments of local Well-being and development / implementation of local well-being plans.***

10. The Bill fails to give the high level, appropriate steer necessary to ensure that the most fitting action can be taken in pursuit of sustainable development.
11. The well-being goals fail to show consideration of the links between health, the environment and well-being. It is vital to consider them together rather than separately due to the way these issues interact in complex ways with a range of costs and benefits for society. A recent [report](#) from the European Environment Agency has highlighted the need to take a broader more systemic and integrated approach to the subject of well-being.
12. Consideration of gender and equality is missing. While academic and public policy practice have shown strong links between the environment, gender and sustainable development, there is a conspicuous absence of this dimension in the Bill, leading to risk of failure to address this in a Welsh context.
13. We would suggest that the Commissioner should be appointed by and accountable to the National Assembly for Wales rather than Welsh Government. There should be a stronger leadership role for the Commissioner, as well as wider powers to investigate areas of concern or possibly even question public bodies on their performance in relation to the legislation's aim. There is an opportunity for a Commissioner to act as a conduit for the gathering and dissemination of best practice. They should have a role in building capacity of organisation subject to the duties in the Bill.
14. The Bill needs to give greater consideration to the sustainable development indicators and their development in a Welsh context, as well as demonstrating a clear line to EU monitoring processes and relevant environmental and other legislation.

***How effectively the Bill addresses Welsh international obligations in relation to sustainable development;***

15. This is clearly a missed opportunity in the Bill, lack of consideration of Welsh climate change obligations does raise questions about international obligations. The same holds true for commitments incurred under the [Convention on Biological Diversity](#) (CBD). The Bill needs to clearly demonstrate a Welsh obligation to addressing and mainstreaming well-being so that it promotes positive synergies with other obligations such as climate change, biodiversity and equality.



***Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;***

16. Rather than being seen as a **barrier** to investment by business, we would want to see any future sustainable development duty promoted as a benefit. Wales can be at forefront of developing some of the skills and expertise in the field of sustainability, particularly given the international research expertise already existing within Wales. There is also potential for the transfer of best practice from Wales to EU member states and beyond.
  
17. Each organisation subject to the duty will need extra strategic, analytical capacity to develop their own approach to making sustainable development their central organising principle. Building capacity of these organisations will take time and resources, and there is an opportunity with the appointment of a Commissioner to provide a strong leadership and capacity building role, so as to enable the development of the appropriate skills, tools and culture within each organisation. There also needs to be opportunities for each organisation to grow and develop their knowledge and skills to apply the sustainable development principle to their functions, to be able to share experiences with other organisations subject to the duty in Wales, and also to learn from examples of best practice from other organisations across the UK and beyond.
  
18. Coordination of this capacity building across the different organisations will be essential to maximise the opportunities to meet environmental targets, improve wellbeing as well as making savings and to demonstrate the value a sustainable development approach brings. This again highlights the need for a stronger role for the Commissioner.
  
19. Lack of capacity within organisations can act as a barrier. Staff resource to develop new, more sustainable systems and solutions on the ground is essential. It is vital to employ staff with knowledge of a wide range of sustainability issues, including an understanding of certified environmental management systems, sustainable development indicators and EU regulatory and monitoring processes and current environmental legislation, as well as practical experience of awareness-raising. There is a need to ensure all staff, and students in the case of higher and further education institutions, have a basic understanding of sustainable development and appreciate what it means to make it the central organising principle of their organisation.

20. Many organisations may be currently doing much to achieve sustainable development but may not necessarily see their actions in this way. The University, for example, has a strong, long-term commitment to sustainable development. In May 2010 we became the first higher education institute in Wales to sign the Welsh Assembly Government's Sustainable Development Charter. This represented our commitment to future proof lives and communities across Wales and also helped focus efforts across the Institution.

21. We are also rated in the People and Planet Green League each year, an independent league table of UK universities ranked by environmental and ethical performance. Opportunities need to be provided, including through the Commissioner's Office, to ensure that such practices are noticed and, where appropriated, adapted elsewhere.

***Whether there are any unintended consequences arising from the Bill;***

22. There are risks and uncertainties attached to the Bill, but unintended consequences, by virtue of the fact that they are unintended, are as not yet known. The Bill does not demonstrate an ability to respond to any unintended consequences and as such does not allow for a 'reflexive governance' approach.

23. Therefore it may be appropriate to look at the Dutch system of public administration and its use of a reflexive governance approach, for example, to the public steering of energy transitions, and to explore to what extent such new and innovative approaches to public policy making could be applied to the Welsh situation.

We have no comments on the remaining points

6. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum and Regulatory Impact Assessment; which estimates the costs and benefits of implementation of the Bill); and

7. the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).