

National Assembly for Wales
Environment and Sustainability Committee
WFG 34
Well-being of Future Generations (Wales) Bill
Response from Welsh NHS Confederation



Briefing for:	National Assembly for Wales Environment and Sustainability Committee.
Purpose:	The Welsh NHS Confederation response to the inquiry into the general principles of the Well-being of Future Generations (Wales) Bill.
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Introduction

1. The Welsh NHS Confederation, on behalf of its members, welcomes the opportunity to contribute to the Environment and Sustainability Committee's inquiry into the general principles of the Well-being of Future Generations (Wales) Bill.
2. By representing the seven Health Boards and three NHS Trusts in Wales, the Welsh NHS Confederation brings together the full range of organisations that make up the modern NHS in Wales. Our aim is to reflect the different perspectives as well as the common views of the organisations we represent.
3. The Welsh NHS Confederation supports our members to improve health and well-being by working with them to deliver high standards of care for patients and best value for taxpayers' money. We act as a driving force for positive change through strong representation and our policy, influencing and engagement work. Members' involvement underpins all our various activities and we are pleased to have all Local Health Boards and NHS Trusts in Wales as our members.
4. The Welsh NHS Confederation and its members are committed to working with the Welsh Government and its partners to ensure there is a strong NHS which delivers high quality services to the people of Wales.
5. The Well-being of Future Generations (Wales) Bill represents an exciting and timely, yet challenging, opportunity for the NHS, the wider public sector and the health and well-being of the population of Wales. The Welsh NHS Confederation and our members consider the Bill to be an important opportunity to address the complex long-term challenges we experience in Wales, including health inequalities, tackling poverty, demographic changes and public engagement. However, to achieve the 'common aim' and 'well-being goals' within the Bill, it is vital that a 'health in all policies' approach is adopted and that requirements for the use of health impact assessments are incorporated in the Bill. Achieving true sustainable development requires a huge culture change and it is unlikely that legislation alone can achieve that.

6. The Welsh NHS Confederation is willing to provide oral evidence to the Environment and Sustainability Committee. We believe it is important for the Committee to have the opportunity to hear directly from the health sector.

Terms of Reference

i) How the Welsh Government should legislate to put sustainability and sustainable development at the heart of Government and the wider public sector;

7. The Welsh NHS Confederation welcomes the inclusion of putting sustainable development on a statutory basis and as a central organising principle. We can see examples where there have sometimes been a failure to meet the needs of the present population, which can compromise the ability of future generations to meet their own needs. One example of this relates to obesity. Had past generations fully recognised the threats of the developing an ‘obesity environment’, and appropriately responded to the risks this brought, the situation today might well have been somewhat different.

8. As well as putting sustainable development at the heart of Government and the public sector, it is important that the Bill provides an opportunity for gaining a wider understanding, and broader application, of the principles of ‘prudent healthcare’. NHS Wales is working hard to ensure that ‘doing the right thing at the right time’ is translated into effective clinical practice which increases capacity, reduces the need for multiple interventions and provides the individual with the best outcome in the timeliest manner. We would further advocate this approach being applied more broadly to the delivery of all public services and in strategic partnerships. Working in an holistic and integrated way will support the drive towards ‘prudent healthcare’ in Wales. Delivering this agenda will require ambition, consensus and co-ordinated delivery across the system.

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

a) The ‘common aim’ and ‘sustainable development principle’ established in the Bill and the ‘public bodies’ specified;

9. The Welsh NHS Confederation supports the ‘common aim’ and ‘sustainable development principle’ established in the Bill. We recognise that the interpretation of the ‘common aim’, as described in the Bill through the term ‘economic, social and environmental well-being’, has the potential to encompass health in its widest definition. However we do recommend that health is included in the ‘common aim’ as well as in the ‘well-being goals’.
10. From a Local Health Board perspective, in terms of joint working with Local Authorities, using the term ‘well-being’ could avoid the difficulties which can arise from using the term ‘health and well-being’ when health is still predominately seen as ‘the business of the NHS’. Particularly in a time of austerity, it would be counter-productive to promote the perception that health is solely the responsibility of the NHS. So while it is useful to have ‘well-being’ within the definition of the

Bill, we would argue that there is scope for spelling out more clearly what the term ‘well-being’ covers.

11. In acknowledging the positives of having well-being within the definition, we also recognise that there is a considerable risk in not including the term ‘health’ in the ‘common aim.’ Such an omission means there is a failure to capitalise on the opportunity to embed “*good health at the centre of the Wales we want*”, as stated by Welsh Government in the Public Health White Paper.
12. Health is a priority for the people of Wales. The interim report from the pilot National Conversation on ‘The Wales We Want’ⁱ stated: “*Although the goals need to be seen as an integrated set, the online survey asked for priorities, with responses highlighting ‘health’ followed by ‘use of natural resources’ and ‘safer, more cohesive communities’ as the top priorities.*” This suggests that rather than being one of six well-being goals, participants thought that the top priority of health should be reflected in each of the goals. The simplest way of achieving this is to elevate health into elements of the ‘common aim’ by including its specific reference in the definition alongside ‘economic, social and environmental well-being’.
13. Furthermore, the absence of health from the ‘common aim’ is a missed opportunity to secure the wider adoption of health impact assessments as an essential part of all local and national policy development. Elements of health impact assessments are included within the Bill but the broad ranging health impact assessments are not referred to explicitly. Reference is made to an ‘*integrated approach to considering how a body’s objectives may impact upon the three aspects of wellbeing*’. This will inevitably lead to impact assessments that focus primarily on economic, social and environmental wellbeing (the ‘common aim’), with no consideration of the depth and breadth of potential health impacts. The Welsh NHS Confederation recommends that the inclusion of a requirement to undertake health impact assessments within the Bill would considerably strengthen the likelihood of ensuring explicit consideration is given to the impacts on a ‘healthier Wales’.
14. In relation to ‘public bodies’ the Welsh NHS Confederation is disappointed and concerned that the Welsh Ambulance Services NHS Trust has not been included within section 5 of the Bill. It is unclear why the Welsh Ambulance Services NHS Trust has been omitted as a public body when all the Local Health Boards, the two other NHS Trusts in Wales and other services, including the Welsh Fire and Rescue Authority, have been included. We would assert that the Welsh Ambulance Services NHS Trust is an integral part of the drive to improve health and healthcare and makes a significant contribution to the well-being of communities. The exclusion of the Welsh Ambulance Services NHS Trust from the list of organisations included as ‘public bodies’ within the Bill raises important governance issues that needs clarification from the Welsh Government.

b) 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;

15. As highlighted above, the Welsh NHS Confederation is disappointed that health is not included in the ‘common aim’ and appears only as part of one of the six ‘well-being goals’. We are concerned that health considerations will not receive sufficient prominence during the

implementation of the future Act. Positioning health as a ‘well-being goal’ rather than as a core element of well-being is too indirect and runs the risk of health being downgraded in the hierarchy of considerations.

- 16.** The Bill is a crucial first step in tackling the culture of ill health in Wales as it recognises that health is much more than health services. Better health is the responsibility of all sectors and while the Welsh Government has already taken steps to infuse health into various sectors - including legislation for children and young people, housing and active travel - the Bill is an opportunity to progress this work further.
- 17.** In relation to the definition of ‘a healthier Wales’ included within the Bill, we welcome the inclusion of both mental and physical health and the recognition that we are seeking to ‘maximise’ health for all, no matter what their current health status. However, this definition is too narrow and there is insufficient emphasis on the protection and promotion of health, whether secured through policy, existing high quality services, legislation or other means.
- 18.** It is important that when considering the six ‘well-being goals’ we do not fall into the trap of disaggregating them and seeing the ‘healthier Wales’ goal as only the responsibility of the NHS. It is of fundamental importance that all partners recognise that all six ‘goals’ contribute equally to the overall well-being of the population, and that each contributes to the delivery of the others.
- 19.** In addition, while implicit in the majority of the ‘well-being goals’, the Welsh NHS Confederation would recommend that the alleviation of poverty is included. Sustainable development is impossible if we do not address the inequities that exist within Wales and in how Wales relates to the rest of the world. It is vital that the Bill ensures that the Welsh Government is obliged to consider the impact poverty has on people’s well-being. The Bill needs to be more explicit in relation to how the Welsh Government and public bodies are going to ensure that poverty and financial inequality are tackled in Wales.
- 20.** The impact of poverty on health is significant. The Marmot reportⁱⁱ found that people living in the poorest areas of England and Wales will, on average, die seven years earlier than people living in the richest areas. Evidence shows that people living in deprived areas develop multiple conditions earlier than people in more affluent areas and many people of working age have multiple conditions.ⁱⁱⁱ On average, between 2009-2010 and 2011-2012, almost a quarter of people in Wales (23%) were in low income households - higher than in both England and Scotland.^{iv} Many of these factors are interlinked, and a person’s overall well-being will affect their ability to adopt healthy behaviours.^v
- 21.** Finally, it is important that there is a consistent and streamlined approach to the identification of ‘well-being goals’. Presently between the various public sector bodies there are a number of reporting mechanisms, requirements and indicators, some of which will be relevant to the areas covered by this Bill. In particular any new indicators will need to be aligned with the recently published National Outcomes Framework for social services, as part of the Social Services and Wellbeing (Wales) Act, as well as the NHS and Public Health outcomes frameworks. It is vital

that, as far as possible, the number of meaningful outcomes and population measures are shared.

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

22. The Welsh NHS Confederation recognises the need for measures and structures to be put in place to encourage and monitor compliance with the proposed legislation. We welcome the recognition that these must be integrated at all levels and that fundamentally the long-term impacts (both positive and negative) must be considered as well as the short-term impacts.
23. The Bill provides an opportunity for improving the ways in which the NHS in Wales works together with the rest of our public sector partners. The explicit requirement for shared statutory responsibility to achieve the well-being goals is particularly important as it will substantially help the NHS' ability both to hold to account, and to be held to account, by their partners for a range of actions which promote population health improvement.
24. The Welsh NHS Confederation would recommend that the development of the approach to measuring progress is highly cognisant of existing processes and structures in place. There are already substantial reporting arrangements, local and national plans and outcomes frameworks in existence or under development. At a time when resources are limited, care must be taken to recognise what already exists and allow transition towards a coherent approach.

d) The establishment of a Future Generations Commissioner for Wales, the Commissioner's role, powers, responsibility, governance and accountability;

25. We would welcome the appointment of a Commissioner for Future Generations. Such a position would be an important signal that sustainable development is central to Welsh policy. However, we would expect the role to be on a par with other Commissioner roles established in Wales.
26. It is disappointing that the Commissioner would be accountable to the Welsh Government rather than to the National Assembly, as is the case with the Older People's Commissioner, the Children's Commissioner and the Welsh Language Commissioner. The Commissioner's powers and responsibilities need to be clear to enable the public and the bodies subject to the Bill to understand what the Commissioner can and cannot do.

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

27. The Welsh NHS Confederation supports the establishment of statutory Public Service Boards to enable stronger commissioning and planning discussions. Health Boards are already moving at pace to integrate services more effectively. A logical next step would be to transform Local Service Boards into the new Public Services Boards if there is clear evidence that Local Service Boards have been effective and any lessons learnt from the current Local Service Board's, in terms of the form and functions, are considered. From a structural perspective, morphing one to

the other may seem to be the logical solution but Public Service Boards must be able to deliver on the requirements of the Bill.

28. We welcome the move to reform integrated community planning and simplifying the system, removing the need to develop separate plans for aspects which can much more efficiently be addressed together. We note that there will remain a tension between planning cycles given the focus on three-year planning within the NHS and the different national and local political cycles.

29. We do have some concern about the duration of the Public Service Boards being linked to political cycles. Planning for health (and indeed for sustainable development) requires periods much longer than the local electoral cycle allows. Consequently, there is a risk that the success of the Well-being of Future Generations Bill may be compromised by the potential to interrupt medium and long-term sustainable improvement.

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

30. This Bill is vital to the Welsh population but the Welsh Government must work with Governments across the UK and other nations to ensure that the best outcomes are achieved for all. While this legislation progresses in Wales, there remain critical issues that demand a UK-wide, or international, approach, for example the way food processing and labelling is governed.

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

a) Health Impact Assessments

31. As previously highlighted, the omission to include health impact assessments explicitly within the Bill could be a barrier to the achievement of a 'healthier Wales'. The major public health challenges that we face may not be effectively addressed within the proposed legislative framework, as outlined in the current versions of the Public Health White Paper and the Well-being of Future Generations Bill.

32. For many years, Wales has been ambitious in efforts to integrate health considerations into policy making. While in the Public Health Green Paper nearly half the questions related to health impact assessments, the subsequent Public Health White Paper did not contain this proposal. It seems that, despite wide support, health impact assessments have been dropped from the Public Health White Paper in its current form. However the Ministerial foreword to the White Paper stated: *"The Future Generations Bill will...demonstrate how a 'Health in All Policies' approach forms a central part of our wider agenda."* As highlighted previously, this has not been explicitly included in the Well-being of Future Generations Bill and the 'once in a lifetime' opportunity for Wales to take an international lead could, therefore, be lost.

33. The inclusion of the commitment for health in all policies will raise the profile of public health in society. It will also serve to increase awareness and knowledge of public health issues across Government departments (national and local) and among those who develop and implement

policy. It is only through this mechanism that we can effectively build a society that prides itself on enabling a healthier population, that actively supports people living healthier for longer across all age groups and that provides an equitable and fit-for-purpose model of care and support.

b) Reforming Local Government.

34. Within the Bill, Public Service Boards and Local Well-being Plans would take the place of existing strategic planning arrangements for public bodies. To make this transition the impact on service delivery and costs associated with such changes cannot be disregarded. There is the need, therefore, for careful introduction with realistic timescales. These changes are being proposed at a time of austerity and of system change, particularly for Local Government.
35. Local Government responsibilities within the Bill will need to have regard to the Williams Commission proposals for Local Government reorganisation and the Reforming Local Government White Paper. Full consideration should be given to the capacity within Local Government to deliver these proposals successfully at a time when service cuts and reductions in service standards are all too apparent.

c) Empowering people

36. The Welsh NHS Confederation welcomes the recognition in the Bill that it will be essential for individuals, communities and organisations to commit to make changes now to manage the future challenges that we face. However it is essential that, as far as individuals are concerned, it is recognised that their ability to make choices and adopt particular behaviours is very much a product of the circumstances in which people live their lives. People need to be educated and empowered to have the knowledge and understanding to remain in good health and receive appropriate interventions.
37. It is vital to recognise that there will need to be a major change in culture and approach in order for the public sector truly to embrace the very different ways of working required to make this Bill a reality. Although co-design and co-production are beginning to happen in some parts of the public sector, the prevailing mindset in many areas is still one in which citizens and service users are passive recipients of services. In order to move towards the kind of engagement needed for the success of this Bill, there will be a significant task in terms of skilling public sector staff to work with people and communities in a way which recognises assets to build on, rather than problems to be solved. Similarly, there is a major cultural shift required to move away from the view of public services as delivery agents to passive populations, to a greater focus on localities in which everyone does their bit.
38. The future success of the NHS relies on us all taking a proactive approach to health and ensuring that we create the right conditions to enable people in Wales to live active and healthy lifestyles. The sustainability of the NHS and other public bodies is the responsibility of everyone in Wales, but do we understand this? In the Welsh NHS Confederation discussion paper 'From Rhetoric to Reality - NHS Wales in 10 years' time'^{vi} we referred to the need to find a way of informing and building a new understanding of how the NHS should be used, embodied by an agreement with

the public that would represent a shared understanding. Within this paper we highlighted the importance of working with the public to co-produce services and reduce demand, releasing capacity in the system.

v) Whether there are any unintended consequences arising from the Bill;

a) Repealing National Assembly Legislation

- 39.** One of the unintended consequences of this Bill is that it will repeal legislation that has recently been passed by the National Assembly for Wales but is not yet in force.
- 40.** The Public Services Boards and Local Well-being Plans introduced within this Bill may align local and national strategic planning through the well-being goals. But the Bill would also be repealing a range of statutory provisions relating to plans for a range of groups, including the duty in section 40 of the NHS (Wales) Act (2006) to prepare Health and Well-being Strategies. The repeal of section 40 of that Act will also repeal the amendments made to that section by section 14 of the Social Services and Well-being (Wales) Act 2014, including the requirement for any part of a health and well-being strategy relating to the health and well-being of carers to be sent to Welsh Ministers. We are concerned that the Bill will repeal requirements where health and well-being considerations are explicit, to be replaced with this legislation where health is only implicit.

b) Public Health Wales Bill

- 41.** The significance of this Bill for health is intrinsically linked with the content and progress of the proposed Public Health Bill. The Welsh NHS Confederation submitted a comprehensive response to the Public Health White Paper in June 2014 and it is disappointing that the responses to the Public Health Bill have not been considered over time before this Bill has been introduced. The interim report from the pilot National Conversation on ‘The Wales We Want’^{vii} reflects this: *“Many ... stated the critical need to align the Well-Being of Future Generations (Wales) Bill with the Social Services and Public Health Bill, among others, with suggestions that “Health in all policies” is reflected in achieving each of the goals.”*
- 42.** When responding to the Public Health White Paper, we were of the view that the absence of both the adoption of a ‘health in all policies’ approach, and requirements for the use of health impact assessments in the Public Health White Paper, were due to the fact that they would be included in the Well-being of Future Generations Bill. The fact that health impact assessments are not adequately incorporated within this Bill makes their omission from the Public Health White Paper all the more important. The very existence of the Well-being of Future Generations Bill appears to have had consequences in terms of the nature of the proposed Public Health Bill. The latter has been reduced to a narrowly focused, siloed set of short to medium term objectives to be achieved in one Government term. The manner in which this Bill has been drafted, with health absent from the ‘common aim’ means that there is every chance Wales could be left with no notable levers to make the strategic, large scale changes that are needed.

vi) 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);

43. Our reading of the material in the Explanatory Memorandum in relation to the Regulatory Impact Assessment suggests that it may have been underestimated how much work all public bodies will need to undertake in order to fully exploit the opportunities envisaged by the Bill. For example, the calculations presented regarding the costs of undertaking needs assessments has been underestimated. Therefore it is important that in further discussions on the implementation of the Bill a realistic assessment of the capacity and time needed by local partners is considered.

vii) 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).

44. We note that in Section 36(3) (h) of the Bill Welsh Ministers have the power to prescribe other assessments that must be taken into account by Public Service Boards. We hope that our concerns on the omission of health impact assessment are considered and incorporated on the face of the Bill.

Conclusion

45. The Welsh NHS Confederation is committed to supporting the successful implementation of the Well-being of Future Generations Bill and the Public Health Bill. Through these Bills there is a once in a generation opportunity to place health at the centre of our public policy and practice in order to enable people to live healthy, long lives with a public service that is organised to promote self-care, prevent ill-health and keep people healthier for longer.

ⁱ The Wales we want, July 2014, An Interim Report from the pilot National Conversation on ‘The Wales We Want’

ⁱⁱ The Marmot Review, February 2010, Fair Society, Healthy Lives

ⁱⁱⁱ The NHS Confederation, May 2014, The 2015 Challenge Declaration

^{iv} Joseph Rowntree Foundation, September 2013, Monitoring poverty and social exclusion in Wales

^v NHS Confederation and Faculty of Public Health, October 2011, From illness to wellness: achieving efficiencies and improving outcomes.

^{vi} The Welsh NHS Confederation, January 2014, From Rhetoric to Reality – NHS Wales in 10 years’ time

^{vii} The Wales we want, July 2014, An Interim Report from the pilot National Conversation on ‘The Wales We Want’