

**Y Pwyllgor Amgylchedd a Chynaliadwyedd**  
**Environment and Sustainability Committee**

Cynulliad  
Cenedlaethol  
Cymru  
National  
Assembly for  
Wales



Carl Sargeant AM  
Minister for Natural Resources  
Welsh Government

29 September 2014

Dear Carl

**Well-being of Future Generations (Wales) Bill – Further information**

Thank you for attending the Committee meeting last week for the scrutiny session on the general principles of the Well-being of Future Generations (Wales) Bill. As the Bill covers such a broad range of issues, there were several issues which the Committee was unable to discuss with you at the meeting. Those issues are listed in this letter, and we would be grateful if you could provide further information on these in writing.

**Defining SD in the Bill and the SD duty**

The Committee would be grateful if you could explain:

- the meaning of “well-being” and how this relates to the use of the term in other Assembly Acts and Measures particularly the *Social Services and Well-being (Wales) Act 2014*; and
- the meaning and intended effect of section 3, specifically how in practice a public body will demonstrate that it had sought to “ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs”, including the meaning of “seeking to ensure” and “needs” in this provision.

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## **Public Bodies**

It would be very helpful to the Committee if you could explain:

- why higher education and further education institutions, registered social landlords, the Welsh Ambulance Service NHS Trust and community councils are not included in section 5; and
- the circumstances in which the power to amend the public bodies to which the Bill applies by regulation will be used and the approach to consultation.

## **Well-being Goals**

In relation to the Well-being Goals, please could you provide further details as to how you would envisage in practice a public body would “pursue the common aim by seeking to achieve the well-being goals”, specifically the meaning of “pursue” and “seeking to achieve” in this provision.

We would also appreciate further details on the circumstances where the Welsh Ministers would use powers to amend the goals by regulation, and the approach consultation.

## **Well-being objectives and the duty on public bodies**

In relation to the well-being objectives and duty, the Committee would be grateful for information on:

- whether the duties are consistent with *all* other statutory duties of public bodies subject to the Bill and the steps you have taken to ensure this; and
- how the Bill gives effect to the intention in the EM that “the requirements of the Bill are incorporated into existing corporate governance and business planning processes”, specifically whether objectives must encompass *all* decisions by a body and if so how this is made clear in the Bill.

## **Measuring performance**

Please could you respond to the Auditor General’s observations that “it will not be possible to rely on indicators to assess the performance of particular public bodies in achieving goals” and that “that the goals, as currently framed, cannot be achieved by the public sector alone”. It would be useful to have your response to this and your views on any implications this might have for using indicators to assess the performance of the public bodies either individually or collectively.

A number of consultation respondents have suggested that responsibility for ensuring enforcement is unclear as the Bill contains references which suggest roles for Welsh Ministers, the Commissioner and the Auditor General. We would be grateful for further clarification of where responsibility for enforcement lies as well as details of the specific role of the Welsh Ministers, the Auditor General for Wales and Future Generations Commissioner.

## **Future Generations Commissioner for Wales**

The appointment and functions of the Future Generations Commissioner for Wales was a key issue raised by stakeholders in their consultation responses. Many suggested that the Commissioner should be appointed by the National Assembly for Wales, therefore we would be grateful if you could set out whether you believe that

the Commissioner can be considered independent given the significant role of the Welsh Ministers in their appointment and governance.

Stakeholders have suggested to the Committee that the section 20 duty on public bodies to “take all reasonable steps” to follow the Commissioner’s recommendations is weak in practice since public bodies could easily avoid a recommendation. Therefore we would be grateful for your response to this suggestion, and for details as to how you would expect a body to demonstrate that it was “satisfied that there is good reason for it not to follow the recommendation in particular categories of case or at all” or its reasoning if “it decides on an alternative course of action”.

Please could you also explain:

- the reason why the Commissioner’s power to provide advice and assistance on climate change is limited to providing advice to Ministers, and how such advice relates to the role of the Climate Change Commission for Wales;
- the circumstances where the Welsh Ministers might issue guidance “to other public bodies” on their response to a recommendation;
- how the Bill ensures an appropriate response from the Welsh Ministers to a recommendation directed at them; and
- why section 23 (joint working) is required given that it provides the power, but not a duty, to work jointly which the Commissioners could presumably do anyway.

### **The Commissioners Advisory Panel**

In relation to the advisory panel, we would be grateful if could you provide further information on the circumstances in which the power to appoint additional Members under sections 24 and 25 will be used and why this power rests with the Welsh Ministers rather than the Commissioner.

### **Public Services Boards**

The Committee would be grateful for your response to the concerns raised by Natural Resources Wales about the implications of “resourcing the needs of 22 PSBs as a statutory member”.

We note that the assessments and reviews included at section 36(3) which PSBs must take into account in preparing assessments of local well-being are all social. We would be grateful if you could explain why this is the case and how this reflects the balance between social, economic and environmental well-being set out in the “common aim” and “local aim”.

It would also be useful to have detail of the circumstances where Welsh Ministers would exercise their power under section 31 to amend membership, participants and other partners, and please could you clarify how provision for PSBs takes account of proposals for local government reform.

Please could you also respond to the suggestion by some stakeholders that the proposals provide Ministers with significant powers to prescribe PSB roles, processes and outcomes and explain how this balances the need for consistency with local democracy.

## **The Regulatory Impact Assessment and Financial Provisions**

We are grateful for your comments in oral evidence setting out why you do not believe there will be significant cost associated with delivery of the Bill. However, we would be grateful if you could respond to the specific concerns raised by both the Auditor General for Wales and the Chair of the Wales Audit Office regarding the *accuracy of the estimates and the approach to preparing the cost estimates* presented in the Regulatory Impact Assessment, as opposed to the extent of the likely costs themselves. Links to their evidence are provided below:

<http://www.senedd.assemblywales.org/documents/s30031/WFG%2020%20Auditor%20General%20for%20Wales.pdf>

<http://www.senedd.assemblywales.org/documents/s30029/WFG%2018%20Chair%20Wales%20Audit%20Office.pdf>

## **Power to make consequential etc. provision**

We note the power to make consequential etc. provision in section 52 and would be grateful if you could outline why a power of this nature and scope is required and the circumstances in which it will be used.

## **Scrutiny of part 4 of the Bill**

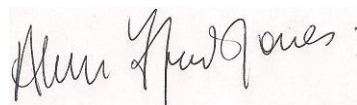
We note your comment on 25 September, in relation to the responsibilities of the Minister for Public Services, that “there may be things that [we] wish to discuss with him also”. However, given the short time available for scrutiny of the Bill, it will not be possible to arrange a separate session with the Minister for Public Services.

While we appreciate the issues raised by the cross-cutting nature of the Bill, we would ask that as Assembly Member in charge of the Bill, you are in a position to answer questions on the principles, implications and delivery of all parts of the Bill, including part 4, when you attend Committee on 23 October. The committee clerk will be happy to accommodate attendance by any colleagues you consider appropriate.

I appreciate that there are some significant issues raised in this letter, however given their importance, the Committee feels that receiving this additional information is crucial to its consideration of the Bill.

The Committee would be grateful if you could provide a response on these issues by **Thursday 9 October**. I appreciate that this timescale is tight, however this reflects the wider timetable for stage 1 and the need for us to receive your response in sufficient time to be able to fully consider the information in advance of your forthcoming appearance at our meeting on 23 October.

Yours sincerely



**Alun Ffred Jones AM**  
**Chair of the Environment and Sustainability Committee**