

Context

The Community Empowerment Act 2015 puts Scotland's National Performance Framework (NPF) on a statutory footing.

The latest iteration of the NPF (2018) sets out 11 National Outcomes. There is broad top-level alignment to the SDGs, and it has the stated aim to 'reduce inequalities and give equal importance to economic, environmental and social progress'.

However, there are a number of limitations with the current statutory framework:

1. This act only requires Scottish ministers to consult on, develop and publish a new NPF every five years.
2. It does not require public bodies, the Scottish Parliament or local authorities to consult on
 - a. the way to measure progress towards those national outcomes,
 - b. nor does it require institutions to assess the impact of their decisions and actions against the 11 National Outcomes.
3. There is limited understanding of how progress on the different outcomes impact upon one another.
4. This act alone, then, cannot ensure a coherent approach to policymaking towards the realisation of the national outcomes contained within the NPF, nor the broader SDGs.

It is in this context that discussions on a well-being and sustainable development bill are occurring.

Thus, the legislation could:

- **make it a statutory requirement for all public bodies and local authorities in Scotland to take full account of the short and long-term Sustainable Development impact of their decisions.**

There are, however, differences in terms of the scope, reach, and substance of these objectives.

Scope:

- The objectives could be about taking proactive steps that improve well-being/development OR taking decisions that avoid negative social, economic and environmental impacts OR both

Reach:

- The bill could be inward focused i.e. focusing on wellbeing of people in Scotland; OR outward focused i.e. tackling global sustainable developed OR in specific countries i.e. less developed countries OR all of the above

Substance:

The legislation could be linked to the SDGs and the NPF could include specific legally, binding targets.

As examples:

- Poverty and inequality, including gender equality;
- Net-zero carbon emissions (including emissions created by goods & services produced overseas, but consumed in Scotland);
- Recovery from biodiversity loss;

- Universal human rights, linking directly to the UNCRC (Incorporation) (Scotland) Bill and forthcoming Scottish human rights legislation incorporating social, economic, cultural and environmental rights;
 - Mitigation of Climate-related socio-ecological disaster risks, impacting differentially on vulnerable communities;
 - Social, economic, and environmental impacts in majority world and lower income countries.
5. The Bill could also seek to develop benchmarks and indicators to help monitor progress. But what these might look like is influenced not only by the scope, reach and substance of the objectives. It will also be shaped by how progress is to be measured. Two possible scenarios:
- a. Assessing whether the appropriate policies have been put in place- in this example, indicators might focus on processes
 - b. Assessing whether objectives are being made- in this case, indicators might be more specific to whether particular targets have been reached.
6. There should/could also be a focus on policy coherence.

This requires thinking about the types of institutions that could be established and also about how to ensure that a coherent and consistent approach is adopted.

The Bill could, for instance, create an independent commission and knowledge exchange network to support public bodies to work towards sustainable development and wellbeing goals across their policy remits, monitor progress in setting realistic and achievable objectives, and review their outcomes.

Thus, while there is a growing concern that something ought to be done, it is not clear what a well-being and sustainable bill/ act would look like. The purpose of this document is to draw lessons from other contexts that have attempted to adopt legislation and policy in terms of well being and sustainable development to identify, from a comparative perspective, how different countries have attempted to navigate the range of potential options identified above.

To assist in drawing comparisons, each context is addressed through a set of guiding questions:

- 1. Is sustainable development defined? What is meant by sustainable development?**
- 2. Who has duties and what do they entail?**
- 3. What, if any, are the objectives?**
- 4. How, if at all, is progress measured?**
- 5. What systems of accountability/monitoring are in place?**

United Kingdom: Wellbeing of Future Generations (No.2) Bill

Background

The Wellbeing of Future Generations Bill is a private member's bill, which means it is a piece of legislation being brought through parliament by a peer or MP who is not part of government. The Bill's founder Lord John Bird, who has been a crossbench peer since 2015, is bringing the draft legislation through the House of Lords. A co-sponsor to introduce the bill to the House of Commons is still to be confirmed.

The Preamble reads as follows:

A Bill to make provision for requiring public bodies to act in pursuit of the United Kingdom's environmental, social, economic and cultural wellbeing by meeting wellbeing objectives, publishing future generations impact assessments, accounting for preventative spending, and through public services contracts; to establish a Commissioner for Future Generations for the United Kingdom; to establish a Joint Parliamentary Committee on Future Generations; to require companies to consider the impact of their activities on the United Kingdom's wellbeing; and for connected purposes.

- **Current Stage of Bill:**
 - 1st Reading in House of Commons: 24 March 2020
 - 2nd Reading in House of Commons: 10 December 2021

Guiding Questions

1. **Is sustainable development defined? What is meant by sustainable development?**
2. **Who has duties and what do they entail?**
3. **What, if any, are the objectives?**
4. **How, if at all, is progress measured? i.e. Benchmarks, indicators, reports**
5. **What systems of accountability/monitoring are in place?**
6. **How, if at all, is policy coherence to be achieved?**

1. **Is sustainable development defined? What is meant by sustainable development?**

In this Act, "sustainable development" means the process of improving the economic, social, environmental and cultural wellbeing of the United Kingdom by taking action, in accordance with the future generations principle, aimed at achieving the wellbeing goals in section 5.

2. **Who has duties and what do they entail?**

This Act requires the bodies to set wellbeing objectives that are to contribute to the achievement of wellbeing goals and to take steps to meet those objectives;

Section 3(1) defines that:

For the purposes of this Act, a "public body" means any person certain of whose functions are functions of a public nature, but only in respect of the exercise of functions that do not fall within the devolved powers of the Scottish Government, the Welsh Ministers or the Northern Ireland Executive. This does not include either House of Parliament, or a person exercising functions in connection with proceedings in Parliament.

4 Wellbeing duty on public bodies

- (1) Each public body must carry out sustainable development.*
- (2) The action a public body takes in carrying out sustainable development must include—*
 - (a) setting and publishing objectives (“wellbeing objectives”) that are designed to maximise its contribution to achieving each of the wellbeing goals, and*
 - (b) meeting, in the exercise of its functions, its wellbeing objectives.*
- (3) Proceedings and judicial remedies concerning a public body’s failure to fulfil its duties are set out in sections 27 and 28.*
- (4) In fulfilling its duties under subsection (2), public bodies must have regard to any relevant future generations impact assessments under section 17.*
- (5) A public body that exercises functions in relation to the United Kingdom may set objectives relating to the United Kingdom.*
- (6) A public body that exercises functions in relation only to a part of the United Kingdom may set objectives relating to that part or any part of it.*

6 The future generations principle

- (1) In this Act, any reference to a public body doing something “in accordance with the future generations principle” is a reference to the body acting in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.*
- (2) In acting in that manner, a public body must take account of the following things*
 - (a) the importance of balancing short-term needs with the need to safeguard the ability to meet long-term needs, especially where things done to meet short term needs may have detrimental long-term effect;*
 - (b) how deploying resources to prevent problems occurring or getting worse may contribute to meeting the body’s wellbeing objectives, or another body’s objectives;*
 - (c) the importance of deploying resources to undertake long-term planning in order to forecast and manage emerging risks that may undermine the body’s wellbeing objectives, or another body’s objectives;*
 - (d) the need to take an integrated approach, by considering how*
 - (i) the body’s wellbeing objectives may impact upon each of the wellbeing goals;*
 - (ii) the body’s wellbeing objectives impact upon each other or upon other public bodies’ objectives, and in particular where steps taken by the body may contribute to meeting one objective but may be detrimental to meeting another;*
 - (e) the importance of involving other persons or bodies with an interest in achieving the wellbeing goals and of ensuring those persons reflect the diversity of the population of*
 - (i) the United Kingdom (where the body exercises functions in relation to the whole of the United Kingdom), or*
 - (ii) the part of the United Kingdom in relation to which the body exercises functions;*

(f) how acting in collaboration with any other public body (or how different parts of the body acting together) could assist the body to meet its wellbeing objectives, or assist another body to meet its objectives.

7 Statements about wellbeing objectives

(1) When publishing its wellbeing objectives (including wellbeing objectives revised under section 8) a public body must also publish a statement—

(a) explaining why the body considers that meeting the objectives will contribute to the achievement of the wellbeing goals;

(b) explaining why the public body considers it has set wellbeing objectives in accordance with the future generations principle, including how the body proposes to involve other persons with an interest in achieving the wellbeing goals and ensure that those persons reflect the diversity of the population of—

(i) the United Kingdom (where the body exercises functions in relation to the whole of the United Kingdom), or

(ii) the part of the United Kingdom in relation to which the body exercises functions;

(c) setting out the steps the public body proposes to take to meet those objectives in accordance with the principle (including how it proposes to govern itself, how it will keep the steps under review and how it proposes to ensure that resources are allocated annually for the purpose of taking such steps);

(d) specifying the periods of time within which the body expects to meet the objectives;

(e) providing such other information as the body considers appropriate about meeting the objectives.

8 Wellbeing objectives: government departments

(1) Each government department must set and publish its wellbeing objectives—

(a) no later than six months after the earlier of

(i) the date on which the first United Kingdom general election is held following the commencement of this section, or

(ii) the first date on which a new Prime Minister is appointed by the Crown following the commencement of this section, and

(b) no later than six months after the date of each subsequent—

(i) United Kingdom general election, or

(ii) appointment of a Prime Minister.

(2) Each government department must set its wellbeing objectives for the period—

(a) beginning with the day specified for that purpose in the statement published under subsection (1), and

(b) ending with the day of the next United Kingdom general election scheduled under section 1 of the Fixed-term Parliaments Act 2011.

(3) If the wellbeing goals are amended, each government department must review its wellbeing objectives.

(4) If, on a review under subsection (3), a government department determines that one or more of its wellbeing objectives are no longer appropriate, it must revise the objective or objectives concerned.

(5) A government department may, at any other time, review and revise its wellbeing objectives.

(6) Wellbeing objectives revised under subsection (4) or (5) must be set for the remainder of the period referred to in subsection (2).

(7) Where a government department revises its wellbeing objectives under subsection (4) or (5), it must, as soon as reasonably practicable, publish the wellbeing objectives as revised.

(8) In setting or revising its wellbeing objectives, a government department must take into account the Commissioner's report under section 29.

9 Other public bodies' wellbeing objectives

(1) In this section references to a public body do not include government departments.

(2) A public body must set and publish its wellbeing objectives—

(a) no later than the beginning of the financial year following the commencement of this section, and

(b) at such subsequent times as the body considers appropriate.

(3) If the wellbeing goals are amended, a public body must review its wellbeing objectives.

(4) If, on a review under subsection (3), a public body determines that one or more of its wellbeing objectives are no longer appropriate, it must revise the objective or objectives concerned.

(5) A public body may at any other time review and revise its wellbeing objectives.

(6) Where a public body revises its wellbeing objectives under subsection (3) or (4), it must publish them as soon as is reasonably practicable.

(7) In setting or revising its wellbeing objectives, a public body must take into account the Commissioner's report under section 29.

3. What, if any, are the objectives?

5 Consultation and provision for the wellbeing goals

(1) The Secretary of State must carry out a public consultation on the proposed wellbeing goals including with persons the Secretary of State, and the Future Generations Commissioner, deem to be appropriate.

(2) The Secretary of State must begin the consultation within three months of this Act coming into force and the consultation must be completed within six months.

(3) The proposed wellbeing goals are listed and described in Table 1—

<i>Wellbeing goals</i>	<i>Description</i>
A more prosperous United Kingdom	An innovative, productive and low-carbon society which recognises the limits of the global environment and uses resources efficiently and proportionately, including acting on climate change and preventing poverty; and which develops a skilled and well-educated population to take advantage of the wealth generated through securing decent work.
A more resilient United Kingdom	A society which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change, including climate change.
A healthier United Kingdom	A society in which people's physical and mental wellbeing is maximised and in which choices and behaviours that benefit future health are understood and maximised.
A more equal United Kingdom	A society that enables people to fulfil their potential and to have equal access to opportunities, no matter what their background or circumstances.
A United Kingdom of cohesive communities	A society of viable, well-connected, attractive and safe communities.
A United Kingdom of vibrant culture	A society that promotes and protects culture, languages and heritage, and which encourages people to participate in the arts, sports and recreation.
A more responsible United Kingdom	A society which, when acting to improve the economic, social, environmental and cultural wellbeing of the United Kingdom, takes account of whether its actions or intentions make a positive contribution to global wellbeing.

4. How, if at all, is progress measured? i.e. Benchmarks, indicators, reports

10 Annual wellbeing goals report

(1) *The Secretary of State must—*

(a) publish indicators (“national indicators”) that must be applied for the purpose of measuring progress towards the achievement of the wellbeing goals, and

(b) lay a copy of the national indicators before both Houses of Parliament.

(2) A national indicator—

(a) must be expressed as a value or characteristic that can be measured quantitatively or qualitatively against a particular outcome;

(b) may be measured over such a period of time as the Secretary of State considers appropriate;

(c) may be measurable in relation to the United Kingdom or any part of the United Kingdom.

(3) The Secretary of State must set milestones in relation to the national indicators which he or she considers would assist in measuring whether progress is being made towards the achievement of the wellbeing goals.

(4) In setting a milestone, the Secretary of State must specify—

(a) the criteria for determining whether the milestone has been achieved (by reference to the value or characteristic by which the indicator is measured), and

(b) the time by which the milestone is to be achieved.

(5) If the wellbeing goals are amended, the Secretary of State must review the national indicators and milestones.

(6) If, on a review under subsection (5), the Secretary of State determines that one or more of the national indicators or milestones are no longer appropriate, he or she must revise it or them.

(7) The Secretary of State may at any other time review and revise the national indicators and milestones.

(8) Where the Secretary of State revises the national indicators and milestones under subsection (6) or (7), he or she must as soon as reasonably practicable publish the indicators and milestones as revised.

(9) Before publishing national indicators and milestones (including indicators and milestones revised under subsection (6) or (7)), the Secretary of State must consult—

(a) the Commissioner;

(b) the other public bodies;

(c) such other persons as he or she considers appropriate.

(10) The Secretary of State must, in respect of each financial year beginning after the date on which national indicators are published under subsection (1), publish a report (an “annual wellbeing report”) on the progress made towards the achievement of the wellbeing goals by reference to the national indicators and milestones.

(11) An annual wellbeing report under subsection (10) must specify the periods of time to which the measurement of each indicator relates.

11 Future trends report

(1) The Secretary of State must, during the period of 12 months beginning with the date of a United Kingdom general election or the appointment of a new Prime Minister by the Crown, publish a report

(a “future trends report”) that contains predictions and plans to manage likely long-term future trends concerning—

(a) the economic, social, environmental and cultural wellbeing of the United Kingdom, including emerging and existential threats, and

(b) any related information that the Secretary of State considers appropriate.

(2) In preparing a future trends report the Secretary of State must—

(a) take account of any action taken by the United Nations in relation to the UN Sustainable Development Goals and assess the potential impact of that action on the economic, social, environmental and cultural wellbeing of the United Kingdom, and

(b) take account of the advice and reports of—

(i) the United Kingdom Committee on Climate Change, and

(ii) the United Nations Intergovernmental Panel on Climate Change, and

(c) take account of the views of—

(i) primary and secondary school children, and

(ii) students in further and higher education, in the United Kingdom as expressed in an annual survey of their views on economic, social, cultural and environmental wellbeing, conducted in cooperation with relevant youth and student bodies including the United Kingdom Youth Parliament, the National Union of Students, and any other persons or bodies the Secretary of State deems appropriate.

(3) In subsection (2)(a), “UN Sustainable Development Goals” means the 17 UN Sustainable Development Goals referred to in UN resolution A/RES/70/1 which was adopted by the General Assembly of the United Nations on 25 September 2015.

(4) For the purposes of subsection (2)(c), the Secretary of State may by regulations provide for an annual survey of primary and secondary school children and students in further and higher education.

12 National future risk assessment

(1) The Secretary of State must, within the period of 12 months beginning with the date of a United Kingdom general election or the appointment of a new Prime Minister, publish a report (a “national future risk assessment”) that contains—

(a) an assessment of risks, including environmental and global risks that may emerge or grow in the future, for at least the forthcoming 25 years, and

(b) each department’s plans to manage and prepare for the identified future risks.

(2) A national risk assessment must be subsequently produced and published every five years in accordance with subsection (1) until the next general election or appointment of a Prime Minister.

13 Annual wellbeing objectives report

(1) Ministers of the Crown must collectively—

(a) publish, in respect of each financial year, a report of the progress they have made towards meeting government departments' wellbeing objectives, and

(b) lay a copy of the report before both Houses of Parliament.

(2) In preparing a report under this section, the Ministers of the Crown must review government departments' wellbeing objectives with—

(a) the Commissioner,

(b) the Future Generations Commissioner for Wales,

(c) any public body or body charged with protecting the needs of future generations in Scotland,

(d) a public body or body charged with protecting the needs of future generations in Northern Ireland,

(e) any other commissioner, public body or body deemed to be appropriate by Ministers of the Crown.

(3) If, on a review under subsection (2), the Ministers of the Crown determine that one or more of their wellbeing objectives are no longer appropriate, they must revise the objective or objectives concerned and publish the revised objective or objectives as soon as practicable.

(4) Where the Ministers of the Crown revise one or more objectives under subsection (3), the report under subsection (1) must include an explanation of the revision and the reasons for making it.

(5) A report under this section must be published and laid before both Houses of Parliament as soon as reasonably practicable following the end of the financial year to which the report relates.

14 Annual reports by other public bodies

(1) Each public body other than the Ministers of the Crown must publish annual reports of the progress it has made in meeting its wellbeing objectives.

(2) In preparing a report under this section, a public body must review its wellbeing objectives.

(3) If, on a review under subsection (2), a public body determines that one or more of its wellbeing objectives are no longer appropriate, it must revise the objective or objectives concerned and publish the revised objective or objectives as soon as practicable.

(4) Where a public body revises one or more of its objectives under subsection (3), the report must include an explanation of the revision and the reasons for making it.

5. What systems of accountability/monitoring are in place?

(3) Part 3 of this Act

(a) establishes the office of Future Generations Commissioner for the United Kingdom;

(b) provides for the Commissioner to promote the needs of future generations by monitoring and reporting on the extent to which public bodies are setting and seeking to meet their wellbeing objectives in accordance with the future generations principle;

(c) provides for the Commissioner to carry out reviews of public bodies; (d) establishes a panel of advisers to the Commissioner.

(4) Part 4 of this Act

(a) establishes the Joint Committee on Future Generations including its membership and the procedure for appointment;

(b) establishes the functions of the Joint Committee on Future Generations;

(c) sets out the reporting requirements of the Joint Committee on Future Generations.

6. How, if at all, is policy coherence to be achieved?

Little reference to policy. No mention of coherence or consistency. Little mention of collaboration or cooperation and not in the context of policy coherence.

One slight reference is the following:

6 The future generations principle

(1) In this Act, any reference to a public body doing something “in accordance with the future generations principle” is a reference to the body acting in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs

(2) In acting in that manner, a public body must take account of the following things

...

*(f) **how acting in collaboration** with any other public body (or how different parts of the body acting together) could assist the body to meet its wellbeing objectives, or assist another body to meet its objectives.*

Note: This is slightly different to Wales where the word collaboration is used 10 times and co-operation 4 times in the legislation. For instance:

48 Collaboration between public services boards

(1) Two or more public services boards may agree to collaborate if they consider it would assist them in contributing to the achievement of the well-being goals.

(2) The Welsh Ministers may direct two or more public services boards to collaborate in whatever way the Welsh Ministers consider would assist the boards in contributing to the achievement of the well-being goals.

(3) For the purposes of this section, a board collaborates if it—

(a) co-operates with another board,

(b) facilitates the activities of another board,

(c) co-ordinates its activities with another board,

(d) exercises another board’s functions on its behalf, or

(e) provides staff, goods, services or accommodation to another board.

49 Directions to merge or collaborate

(1) Before giving a direction under section 47(2) or 48(2) the Welsh Ministers must consult each member of the public services boards they intend to direct.

(2) When giving such a direction the Welsh Ministers must publish a statement containing their reasons for giving it.

Malta: Sustainable Development Act, 2012

Background

Malta is one of the few countries having a specific Sustainable Development framework model in place which is underpinned by the Sustainable Development Act (Chapter 521), which was adopted in 2012. This legislative framework mandates Government to “mainstream Sustainable Development across the workings of Government, to raise awareness of sustainable development issues and practices across society.”

Guiding Questions

1. **Is sustainable development defined? What is meant by sustainable development?**
2. **Who has duties and what do they entail?**
3. **What, if any, are the objectives?**
4. **How, if at all, is progress measured?**
5. **What systems of accountability/monitoring are in place?**

1. Is sustainable development defined? What is meant by sustainable development?

Article 3 of the Act states that:

"sustainable development" means development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

2. Who has duties and what do they entail?

The Competent Authority holds the primary responsibility under the 2012 Act:

PART II Competent Authority Establishment of a competent authority.

4. The Office of the Prime Minister shall be designated as the competent authority for the purposes of this Act: Provided that the Prime Minister may by notice in the Gazette designate another entity as the competent authority for the purposes of this Act.

Between 2013 and 2019, the Sustainable Development Directorate within the Ministry for the Environment, Sustainable Development and Climate Change (MESDC) was the Competent Authority responsible for the implementation of the Sustainable Development Act. However, as from January 2020, Sustainable Development forms part of Office of the Prime Minister’s portfolio.

Article 5 of the 2012 Act defines the functions of the Competent Authority. These include:

- (a) to ensure the development and implementation of Malta’s sustainable development strategy;
- (b) to revise the said strategy in line with national, European Union and international developments and to establish the direction the revised strategy is to adopt;

(c) to ensure that the provisions of the strategy are implemented in a timely manner by the responsible actors;

(see further functions here:

https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=90497&p_lang=)

Article 6 of the 2012 Act outlines the powers of the Competent Authority. These include:

6. (1) In carrying out its functions under article 5, the competent authority shall, in respect of sustainable development, be empowered to:

(a) set recommendations to be achieved at a national, local, sectoral, entity or any other level deemed appropriate;

(b) initiate, promote, sponsor and encourage projects, studies, research, training, awareness initiatives and any other activities which exemplify sustainable development practices;

(c) make recommendations to the Minister on matters related to sustainable development for adoption by Government;

(d) request information from the public administration;

(e) establish and direct subcommittees to undertake various tasks

(see further functions here:

https://www.ilo.org/dyn/natlex/natlex4.detail?p_isn=90497&p_lang=)

There are, however, a number of additional duty bearers, which are defined under Article 7.

Article 7 of the 2012 Act stipulates other bodies along with their respective roles and responsibilities. Article 7 refers to the role of the 'public administration.' As per the 2012 Act, public Administration assumes the same meaning as defined in the Public Administration Act

(<https://legislation.mt/eli/cap/595/eng/pdf>). Thus:

"public administration" means the Government of Malta including its ministries and departments, specialised units and the agencies, government entities, commissions and boards referred to in this Act

Amongst other things, Article 7 defines that:

(2) (a) Every Ministry shall have a Sustainable Development Coordinator.

(b) The Sustainable Development Coordinator shall provide the competent authority with any input it may require in fulfilment of its functions listed in article 5, the powers listed in article 6 and duties listed in subarticle (1) respectively. Such input shall be in a consolidated format reflecting the approved position of the Ministry.

(c) The Permanent Secretary within each Ministry shall be the Sustainable Development Coordinator in respect of such Ministry.

3. What, if any, are the objectives?

The preamble to the Act:

AN ACT to mainstream sustainable development across the workings of government, to raise awareness of sustainable development issues and practices across society and to promote the adoption thereof

Article 3 of the Act states that:

2. (1) The purpose of this Act is to create a framework through which sustainable development is to be mainstreamed across Government.

(2) Within the context of the private sector and civil society, this Act seeks to enable the raising of awareness of the principles of sustainable development, such that these may be adopted on a voluntary basis.

4. How, if at all, is progress measured? i.e. Benchmarks, indicators

One of the functions of the Competent Authority is, according to art. 4(d):

(d) to develop a set of indicators for measuring the progress achieved in the area of sustainable development, and their progressive revision

Article 14 of the Sustainable Development Act (Chapter 521) requires the Competent Authority to produce a Report to be submitted to the Minister responsible for sustainable development, delineating the activities carried out by the Competent Authority during the previous financial year.

In the latest report (2018), there appears to be reliance on existing datasets to help monitor progress:

On page 8 of the report, it is stated that:

“Malta’s achievements in the field of sustainable development, in particular in reaching the SDGs, are reported in two major tools: i. UN SDG Index and Dashboards Report; ii. EU SDG monitoring report.”

6. What systems of accountability/monitoring are in place?

The Act requires under art. 14 that the Minister shall provide a copy of the Report mentioned under heading 4 above to be presented to the House of Representatives for debate. This Annual Report provides a national perspective of the measures which are currently being implemented by the Maltese Government to address and further mainstream sustainable development across all sectors. This approach assimilates the collaborative efforts of all Ministries and offers an integrated way to achieve a sustainable future for the Maltese Islands where no one is left behind.

The Sustainable Development Act of 2012 also establishes The Guardian of Future Generations.

PART IV Guardian of Future Generations

Guardian of Future Generations. 8.

(1) There shall be a Guardian of Future Generations, hereinafter referred to as "the Guardian" with the aim of safeguarding inter-generational and intra-generational sustainable development in Malta.

(2) The Guardian shall be a Commission composed of the following persons:

(a) a chairperson appointed by the Prime Minister;

(b) a person having knowledge of and experience in the Environmental Voluntary Organisations sector and environmental matters appointed by the Minister;

(c) a person with knowledge of, and experience in, commerce, economy and industry appointed by the Minister following consultations with the Malta Council for Economic and Social Development;

(d) a person with knowledge of, and experience in, social and community affairs appointed by the Minister following consultations with the Malta Council for Economic and Social Development.

In the main, the functions of the GoFG is to promote coherences. However, there are some accountability functions. For instance, under 8(4)(h), in order to ensure that Government Entities are contributing towards sustainable development, the Guardian is empowered to request any Government Entity to provide data or information or to collect data or information about any topic that could have a bearing on sustainable development.

Coordination

The Sustainable Development Directorate within the Ministry for the Environment, Sustainable Development and Climate Change (MESDC) is the Competent Authority responsible for the implementation of the Sustainable Development Act. **AS NOTED ABOVE, THE COMPETENT AUTHORITY IS NOW THE OFFICE OF THE PRIME MINISTER.**

Amongst other responsibilities, the Sustainable Development Directorate (now **OFFICE OF THE PRIME MINISTER**) is to ensure the development and implementation of Malta's Sustainable Development Strategy and to revise the said Strategy in line with national, EU and international developments.

The 2012 Act stipulates other bodies along with their respective roles and responsibilities.

- The Permanent Secretary within each Ministry shall be the Sustainable Development Coordinator in respect of such Ministry.
- Every Department of Government, Agency or Entity shall have a Sustainable Development Focal Point. The Sustainable Development Focal Point shall assist the Sustainable Development Coordinator in developing the Ministry's position in respect of any request by the Competent Authority.
- The Guardian of Future Generations has the role of safeguarding intergenerational and intra-generational sustainable development in Malta. The Guardian has the mandate to promote sustainable development advocacy across national policymaking, legislation and practices.
- The Guardian can also propose goals and actions to Government Entities for them to take up in order to contribute towards the goal of sustainable development.
- The Act also provides for the Sustainable Development Network aimed at promoting sustainable development in Malta. The Network brings together representatives from NGOs, Government and the private sector to work together toward more sustainable economic, environmental and social solutions.

Belgium: Multilayered System

The Belgium system of sustainable development is complex, owing to the constitutional set up of Belgium. Thus, different levels of government assume responsibilities for sustainable development.

Article 7bis of the Constitution: “In the exercise of their respective powers, the Federal State, the Communities and the Regions shall pursue the objectives of sustainable development in its social, economic and environmental aspects, taking into account solidarity between the generations”

- Federal State: **Act of 5 May 1997** coordinating the federal policy on sustainable development
- Flemish authorities Decree of 18 July 2008 promoting sustainable development
- Walloon Region Decree of 27 June 2013 regarding the Walloon strategy for sustainable development, modified by Decree of 30 April 2019
- Brussels-Capital Region Article 13 et seq. of the Code bruxellois de l’aménagement du territoire (Brussels Town Planning Code)

This is a rather general legal framework, but the strategic plans based on it are more recent (except for the federal) and explicitly refer to the SDGs or integrate them in their own objectives. As a result, Belgium has a fragmented and evolving “soft law” framework for SDGs. Apart from the French Community, the French Community Commission (COCOF) and the Joint Community Commission (COCOM), the various governments drew up the following strategic plan.

Post-2015

- **Federal State Federal Long-Term Vision for Sustainable Development Federal Sustainable Development Plan**
- **Regions**
- Flemish authorities Visie 2050 – Een langetermijnstrategie voor Vlaanderen (A Long-Term Vision for Flanders – 2050), and Vizier 2030 – Een 2030 doelstellingenkader voor Vlaanderen (A Goal Framework for Flanders – 2030)
- Walloon Region Second Walloon Strategy for Sustainable Development
- Brussels-Capital Region Plan regional de développement durable (Regional Plan for Sustainable Development)
- German-speaking Community Regionales Entwicklungskonzept III (REK III) (Regional Sustainable Development Concept III)

Guiding Questions

1. **Is sustainable development defined? What is meant by sustainable development?**
2. **Who has duties and what do they entail?**

3. **What, if any, are the objectives?**
4. **How, if at all, is progress measured? i.e. Benchmarks, indicators**
5. **What systems of accountability/monitoring are in place?**
6. **How, if at all, is policy coherence to be achieved?**

1. **Is sustainable development defined? What is meant by sustainable development?**

Given that there is such a complex system, it is difficult to find an overarching definition. However, much of the reporting on Belgium and Sustainable Development (for instance, the Court of Auditors report and the 2017 National Review), focuses heavily on the SDGs as constituting sustainable development.

For instance

Since Belgium signed the UN resolution, its governments (Federal State, Communities and Regions) were obliged to make a political commitment too. An analysis⁶ from the Federal Institute for Sustainable Development⁷ (FISD) shows that 31 of the 169 SDG targets exclusively fall within the remit of the Federal State and 5 within that of the Communities and Regions. Belgium's several levels of government are competent for 133 targets, hence the need for consultation and coordination (see section 1.1.2). Every level should verify to what extent policies have already been set to achieve these goals and targets and if further policy actions are required.¹

2. **Who has duties and what do they entail?**

Progress towards the 2030 Agenda **relies on a variety of existing sustainable development strategies adopted by the respective levels of government.**

- At the federal level, the strategy encompasses a Long-term Vision (LTV, approved in 2013) and the Federal Plan for Sustainable Development (approved in 2008).
- At the federal level, the law on the coordination of the federal sustainable development policy includes since 1997 a federal strategy implemented through five-year policy learning cycle ('report-plan-do-check-act') consisting of a periodic planning and reporting mechanism and a consultative process: the federal Sustainable Development Plan and the federal Sustainable Development Report.
- Three institutions are key in the preparation, adoption, implementation and improvement of the policies:
 - (1) the Interdepartmental Commission for Sustainable Development (ICSD) which is in charge of the planning and monitoring part of the process,
 - (2) a task force within the Federal Planning Bureau which reports on the current situation and makes policy evaluations and forecasts, and
 - (3) the Federal Council for Sustainable Development, an advisory stakeholders' council
- At the regional level, key strategic frameworks include:
 - the 2nd Walloon Sustainable Development Strategy (approved in 2016);

¹ Belgian Court of Audit (2020) 'Sustainable Development Goals – 2030 UN Agenda: implementation, monitoring and reporting by the Belgian authorities', at 17.

- the Flemish Vision 2050 (a long-term strategy for Flanders, approved in 2016) and Focus 2030 (Flanders' goals for 2030, preliminarily approved in 2018);
- the Brussels-Capital Region's Regional Sustainable Development plan (approved in 2013); and
- the German-speaking Community's second regional development plan (approved in 2014).

3. What, if any, are the objectives?

Again, variations according to level of government. At federal level, going by the 2017 National Voluntary Review on the Implementation of the 2030 Agenda

(https://sdgtoolkit.org/wp-content/uploads/2017/06/First-Belgian-National-Voluntary-Review-on-the-Implementation-of-the-2030-Agenda_English.pdf), the SDG targets are the objectives.

2. Goals and targets	8
SDG 1: End poverty in all its forms everywhere	8
SDG 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture	11
SDG 3: Ensure healthy lives and promote well-being for all at all ages	14
SDG 4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all	19
SDG 5: Achieve gender equality and empower all women and girls	22
SDG 6: Ensure availability and sustainable management of water and sanitation for all	26
SDG 7: Ensure access to affordable, reliable, sustainable and modern energy for all	29
SDG 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	33
SDG 9: Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation	37
SDG 10: Reduce inequality within and among countries	40
SDG 11: Make cities and human settlements inclusive, safe, resilient and sustainable	43
SDG 12: Ensure sustainable consumption and production patterns	45
SDG 13: Take urgent action to combat climate change and its impacts	48
SDG 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development	52
SDG 15: Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss	55
SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels	59
SDG 17: Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development	64

4. How, if at all, is progress measured?

According to the 2017 National Review:

The SDG policy is monitored by means of indicators. An initial snapshot of the progress made in the implementation of the policy has already been taken for 34 indicators. In 2018, the Interfederal Statistical Institute (ISI) expanded this set of indicators and collected data for 82 indicators. Since February 2020, the data for 32 indicators have been disaggregated by region.

Since they are autonomous, the various governments have been meeting their political commitment to the 2030 Agenda in different ways. Most of them have drawn up strategic plans for sustainable development and carried out actions to involve citizens and stakeholders. Coordination within the same level of government is also organised in different ways, both in terms of policy steering and coordination by the administrations. While budgets do include resources related by nature to SDGs, it is rather exceptional to find an explicit reference to the 2030 Agenda. Differences can also be observed in the policy preparation process: most governments have indeed assessed the sustainable development policy in order to draft their strategic plans but only the Federal State and the Flemish

Government have relied on a comparison with the 17 SDGs. Governments have also developed the SDG monitoring indicators each in their own way. A benchmark and quantified objectives are often lacking, while the indicators are not clearly related to government programmes or actions from the

SDG strategic plans. Mostly, the reports on SDGs merely state the actions implemented without evaluating them against the SDGs.

5. How, if at all, is policy coherence to be achieved?

As noted, the different levels of government in Belgium have drawn up their own SDG policies within their specific remit. However, since the 133 targets fall within their shared competences and given the principles of universality and indivisibility, consultation and coordination are clearly essential.

To achieve the NSDS and promote coherence in the implementation of sustainable development policy in Belgium, an

- Interministerial Conference for Sustainable Development (IMCSD) was established in 2012 and revitalised in 2015. The IMCSD is mandated to follow up implementation of the 2030 Agenda in Belgium (UN DESA, 2017).
- The updated NSDS was approved in 2017, following a civil consultation process with the relevant stakeholders.² It provides the umbrella framework for the main government stakeholders at both federal and federated levels to combine their efforts to achieve the SDGs. The NSDS sets out how the various authorities in Belgium should cooperate and link their strategies to ensure they are coherent with the SDGs (UN DESA, 2017).

The Interministerial Conference on Sustainable Development (ICSD), created on 6 June 2012, has served as a consultation body. Its missions were extended following the adoption of the 2030 Agenda¹⁴. It was within the ICSD that the National Sustainable Development Strategy (NSDS) was adopted on 31 May 2017. The NSDS intends to provide a basis for a consistent approach regarding the strategic lines of sustainable development in Belgium. The NSDS defines a common vision of the desired future situation in the country and includes a selection of priority themes for which the levels of government will carry out joint concrete actions.

6. What systems of accountability/monitoring are in place?

Two things are of note here.

1. The Court of Audit³

In June 2020, Belgian Court of Audit published a report titled 'Sustainable Development Goals – 2030 UN Agenda: implementation, monitoring and reporting by the Belgian authorities'. The Court examined how the various governments in Belgium expressly commit to the SDGs and organise their efforts towards these goals. The audit was not aimed at evaluating the results of the sustainable development policy, but rather at conducting an SDG preparedness review. The Court reviewed the preparedness of both the federal and subnational governments, as well as the coordination of efforts by the different authorities towards the SDGs.

2. VZW Klimaatzaak ('NGO Climate Case') (SEE HERE <https://www.klimaatzaak.eu/en>)

This case involves a challenge through the courts. But it does not really rely on the constitutional provision but rather on human rights standards. Nevertheless, one of the proposals during this case was to amend **Article 7bis of the Constitution to entrench climate goals and principles**.

² I think Graham mentioned there is now a new strategy.

³ The Belgian Court of Audit is in charge of controlling the general bookkeeping and budgetary bookkeeping of each bookkeeping unit.

Background and Summary

The Klimaatzaak -- "climate case" -- was brought by an organization of concerned citizens, and 58,000 citizen co-plaintiffs, arguing that Belgian law requires the Belgian government's approach to reducing greenhouse gas emissions to be more aggressive. The suit named the Belgian State, the Walloon Region, the Flemish Region, and the Brussels-Capital Region as defendants. Specifically, plaintiffs called for reductions of 40% below 1990 levels by 2020 and 87.5% below 1990 levels by 2050.

From February 2019 through March 2020, the parties submitted their main conclusions and final conclusions. In their main conclusions, the plaintiffs seek a Court injunction directing the government to reduce emissions 42 to 48% in 2025 and at least 55 to 65% in 2030. Oral arguments were heard from March 16 to 26, 2021.

On June 17, 2021, the Brussels Court of First Instance held that the Belgium government breached its duty of care by failing to take necessary measures to prevent the harmful effects of climate change, but declined to set specific reduction targets on separation of powers grounds.

The Court first analyzed whether the claim was admissible, and, in doing so, whether the plaintiffs established that the proceedings would provide a benefit to them. Article 17 of the Judicial Code excludes actions brought in the general interest that only indirectly benefit the plaintiff. The Court found that both the 58,000 co-plaintiffs and the Klimaatzaak organization have a personal interest in the action. The citizen co-plaintiffs have a direct, personal interest because they seek to hold Belgian authorities responsible for the climate consequences on their daily lives, and the fact that other Belgian citizens may also suffer damages does not transform their interest into a general one. The Klimaatzaak organization has a direct, personal interest in part because environmental organizations have a privileged status to sue to defend the environment from harm.

The Court found the federal state and the three regions jointly and individually in breach of their duty of care for failing to enact good climate governance. The Court found that despite being aware of the certain risk of dangerous climate change to the country's population, the authorities failed to take necessary action, meaning that they failed to act with prudence and diligence under Article 1382 of the Civil Code. Further, by failing to take sufficient climate action to protect the life and privacy of the plaintiffs, the defendants were in breach of their obligations under Articles 2 and 8 of the European Convention on Human Rights.

However, the Court declined to issue an injunction ordering the government to set the specific emission reduction targets requested by the plaintiffs. The Court found that the separation of powers doctrine limited the Court's ability to set such targets, and doing so would contravene legislative or administrative authority. Neither European nor international law required the specific reduction targets requested by the plaintiffs, and that the scientific report that they relied on, while scientifically meritorious, was not legally binding. The specific targets, therefore, were a matter for the legislative and executive bodies to decide.

On November 17, 2021, Klimaatzaak appealed the judgment of the Brussels Court of First Instance. The appeal is aimed at the Tribunal's refusal to set specific binding targets related to the reduction of greenhouse gas emissions over time. The Brussels Court of Appeal will review both the factual and the legal components of the case.

Part of the proposals in this case were to revise Article 7bis of the Constitution to entrench climate goals and principles.

