

## **Proposed Wellbeing and Sustainable Development (Scotland) Bill**

### **Members Bill Consultation – guidance for responding**

Submit your response here: [Proposed Wellbeing and Sustainable Development \(Scotland\) Bill \(smartsurvey.co.uk\)](https://smartsurvey.co.uk)

This guidance has been put together by a diverse group of organisations interested in furthering wellbeing and sustainable development in Scotland. The group is led by Scotland's International Development Alliance and includes Carnegie UK, Oxfam Scotland and Wellbeing Economy Alliance and others representing the health, social care, community enterprise, environment and nature sectors.

In general we agree with the measures proposed in this consultation. Our suggestions are in blue text. You are welcome to copy and paste, or edit, any suggestions that you feel are pertinent, but we also encourage all respondents to include their own ideas. There is no need to answer every question.

### **Q1 Which of the following best expresses your view of the proposed Bill**

**(Please note, this question is compulsory.)**

- Fully supportive

Please explain the reasons for your response.

**The Bill could trigger a step change that ensures sustainable development and wellbeing become the unequivocal drivers of policy and practice across public life in Scotland.** The Bill would naturally link with the National Outcomes in the National Performance Framework, which is Scotland's wellbeing framework and the way we measure progress towards the Sustainable Development Goals. This legislation also provides an opportunity to put primary prevention (stopping problems from happening in the first place) at the forefront of decision making, protecting the health, economic and social wellbeing of future generations, and the sustainability of our environment and public services for all.

When responding to this question, it might be useful to consider the following questions: How does your organisation interact with the National Performance Framework? Do you think legislation to support its use would be a positive measure? Would a new commission and/or commissioner that would both scrutinise and support working with wellbeing and sustainable development in mind be helpful for your organisation and the communities you work with?

You might also want to consider how similar legislation has affected decisions in other countries, such as the Wellbeing of Future Generations Act in Wales.

Here we outline some key areas that we think the Bill could support.

- **Opportunity to be world-leading**  
The Bill presents an opportunity for Scotland to become a genuine leader in sustainable development and in embedding wellbeing as a goal in policymaking.
- **Tackling the nature & climate crisis**  
To ensure the Scottish Government does not contribute to making our planet uninhabitable through irreversible biodiversity loss and climate chaos, leave anyone behind or lose sight of what is important in terms of our own individual and collective wellbeing, it is vital that we find a

way to make sure we work together in a more joined-up and systematic way, especially in government, and also across the whole of society.

- **Global outlook**

This Bill could avoid negative social, economic, and environmental impacts here in Scotland and significantly reduce negative impacts on the lives and livelihoods of people elsewhere, particularly in 'majority world' and low-income countries. Acknowledging and responding to our current and historical role in creating global inequality between and within countries is vital. This will require active procedures that ensure access to information, public participation, and access to justice in decision-making.

- **Efficiency towards achieving Sustainable Development Goals**

The legislation would assist in setting objectives towards achieving all the SDGs, and the linked National Outcomes, equally and ensuring that doing so impacts positively on communities and people's wellbeing and the environment here in Scotland and globally. The legislation should ensure that all public bodies are working towards all of the outcomes, not just a select few.

- **Need for resources/commissioner**

The Bill would 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. This will require new and better data to measure wellbeing and sustainable development progress.

- **Links to cost of living crisis**

With global poverty on the rise once more, the global crises resulting from the ongoing impacts of the COVID-19 pandemic have laid bare the social and economic determinants of public health. Using and building upon existing frameworks, like the SDGs, to ensure a more resilient future is vital.

- **Invest in prevention and reducing inequalities**

By actively considering issues and their long-term impact this legislation provides an opportunity to put primary prevention at the heart of the decision-making process. Primary prevention means investing to stop problems occurring in the first place. This is the most-cost-effective way of protecting the health, economic and social wellbeing of future generations and for reducing inequalities. It will require more joined up, cross-government working to ensure that policies deliver the best results for current and future communities, focusing on the building blocks of community wellbeing for all.

**Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.**

We believe that legislation is the only way that the Bill's aims could be achieved effectively. You might want to consider the following in your response:

**The role of legislation**

A statutory definition for a term widely used in legislation cannot be created by any means other than legislation. In addition, the creation of a statutory role, with legal powers, cannot be achieved other than by legislation. Similarly, statutory public duties can only be amended/created by legislation.

Thus, **if the Bill's aims are agreed, they can only be achieved by legislation**. Other measures would have no legal effect.

Legislation is an important tool for societal change. It can require and encourage compliance, but also shift societal norms in a much wider range of ways. For example, it can clarify the meanings of important terms, and so move public debate on; it can raise awareness amongst policymakers and the public, and create the structures and processes through which concepts can take hold and flourish.

### **Joining up existing commitments**

The Bill will support the implementation of the National Outcomes which have already been agreed by Parliament.

We believe the Bill provides an opportunity to bring together all of Scotland's commitments on wellbeing and sustainable development into one place which would support more effective implementation.

### **Policy coherence for sustainable development (PCSD)**

Whilst ideas of wellbeing and sustainable development are not new to Scottish legislation, it is only recently that 'policy coherence for sustainable development' as a term has begun to come into general use in policy circles. Coherence – mutual support and consistency – does not appear to be a requirement of public policy, and consideration of the impacts of one policy on others, or on those outside Scotland's borders, is not a cultural norm within the Scottish civil service. Policy coherence has intuitive power: coherence has positive connotations, whilst incoherence has negative ones. Nevertheless, it is not always an aim of governments.

To support a shift towards a more sustainable developmental pathway, it is important to be clear that the policy coherence being sought is with the aim of achieving sustainable development, i.e. PCSD. The NPF, or another framework for the delivery of national outcomes, could be set up to support PCSD.

## **Q3. Which of the following best expresses your view on whether 'sustainable development' should be defined in legislation?**

- Fully supportive

Please explain the reasons for your response, including any views on what the definition should include.

We believe **clear and rigorous definitions of the key concepts of sustainable development, policy coherence for sustainable development, wellbeing and the wellbeing economy, should be set out in this Bill**.

The inclusion of a definition of 'sustainable development' in this legislation is particularly important, because there are already a large number of references to sustainable development in existing legislation. As Scotland's International Development Alliance have argued, a clear definition will provide clarity and support accountability.

### **Defining sustainable development**

Following Scotland's International Development Alliance we propose the following definition for sustainable development:

**“Sustainable Development can be defined as the development of human societies in ways which do not threaten planetary boundaries, and which equitably support the capability of present and future generations across the world to meet their needs.”**

### **Supporting principles**

Key principles to elaborate this definition could be added. We consider the following to be useful: The principle of enhancing ecological and planetary systems through regenerative approaches.

- The principle of intra- and inter-generational equality and equity – to meet the needs of present generations without compromising the ability of future generations to meet their needs.
- The principle of (human or social-ecological) wellbeing instead of economic growth as the core societal objective.
- The principle of interdependence and indivisibility across public policy, meaning that policies are inextricably linked and require policy coherence for sustainable development in response.
- The principle of doing no harm internationally and good global citizenship.
- The principle of evidence-based policymaking.
- The principle of openness and transparency – the availability of information on efforts to achieve sustainable development is vital to engagement and accountability.
- The principle of participation – to recognise that everyone in society has a role to play in working together to achieve sustainable development.

It might be that other principles reflecting Scotland's specific context, e.g. regarding language and culture, could also be included.

Like other aspects of this proposed Bill, having a clear definition of 'Sustainable development' does not mean introducing a new duty or concept, but rather properly defining what is already in place across other legislation, in order to improve delivery.

### **Defining policy coherence for sustainable development**

In order to ensure that domestic and international policy coherence for sustainable development is understood and implemented as a core principle of sustainable development, as listed under the definition of sustainable development, we also propose it should be clearly defined, in the Bill as follows:

Policy coherence is the consistency of public policy, whereby:

- no policy undermines any other policy
- where policy conflicts occur, the root cause of the conflict should be identified and efforts made to resolve it in a manner which:
  - minimizes trade-offs
  - maximises synergies.

Policy coherence for sustainable development must:

- support ecological integrity and social equity within Scotland, and elsewhere in the world
- support the self-defined sustainable development of other countries.

**Q4. Which of the following best expresses your view on whether 'wellbeing' should be defined in legislation?**

- Fully supportive

Please explain the reasons for your response, including any views on what the definition should include.

We support a legal definition of wellbeing for similar reasons to a legal definition of sustainable development: **we believe that it can support accountability by providing greater clarity and specificity around public sector duties.**

### **Defining wellbeing**

Building on work done by the OECD, we suggest that a legal definition of wellbeing that supports public policy decision making should include the principles of equity and long-termism. Therefore,

- **Collective wellbeing is the extent to which people are able to realise the social, economic, environmental and democratic outcomes that they seek.**
- **National wellbeing is the level of collective wellbeing, and is concerned with the inequalities in collective wellbeing between different groups, both domestically and globally, and the conditions for the collective wellbeing of future generations.**

### **Citizen engagement**

However, understanding wellbeing does not stop with a definition. The Stiglitz, Sen, Fitoussi Commission highlights the importance of locating 'wellbeing' in time and place. That means governments engaging citizens in a conversation about what matters to them, and using this to inform their wellbeing goals. In Scotland, we do this in the form of our national outcomes, which is why we want to see the national outcomes transposed from the Community Empowerment (Scotland) Act 2015 to the Wellbeing and Sustainable Development Bill.

But in order to understand wellbeing, it is also critical that citizen engagement has depth and breadth, that it represents a diversity of voices including those who are further away from policy making processes, and that it has a tangible influence on decision-making. The definition of collective wellbeing that we propose includes the qualified 'that they seek' - which requires engagement to identify the outcomes that matter to the people of Scotland at this particular time, and regularly into the future. That's why we want to see new and strengthened duties on Scottish Ministers to do the following:

- engage with a broad and diverse range of people and communities from across Scotland to determine the shared social, economic, environmental and democratic outcomes that constitute national wellbeing. This review of national outcomes should continue to be held carried out by Scottish Ministers at least every 5 years.
- report annually to the Scottish Parliament on the progress towards National Wellbeing with reference to both national statistics and the lived experience of the people of Scotland.
- enhance the public participation requirements for the determination of national outcomes; in particular, clauses around engagement should be amended to require 'participation' rather than 'consultation'.

### **Defining a wellbeing economy**

The Bill should also include a definition of a 'wellbeing economy' that creates human and ecological wellbeing within planetary boundaries. This should give focus to enabling all people in Scotland to realise the social, economic, environmental and democratic outcomes that they seek, without

having a detrimental impact on the ability of people in other countries, and future generations to meet theirs.

The Bill could contain a requirement for the transition to a wellbeing economy to prioritise sustainable consumption and production (SCP). Principles include:

- transition to an economy of sufficiency as well as efficiency;
- reduction of material consumption and all types of wastes;
- reduction of the detrimental impacts on ecology and humans in Scotland and elsewhere;
- adherence to the polluter pays, proximity and precautionary principles;
- the equitable distribution of benefits and disbenefits of the economy;
- decent and sustainable livelihoods.

### **Defining sustainable economic growth**

As the much-disputed phrase ‘sustainable economic growth’ appears in existing legislation, it could be clarified in the WSD Bill as referring to:

- growth which does not threaten ecological integrity or social equity in Scotland and at a global level;
- growth in some sectors, especially pro-ecological, pro-social sectors, those which support a transition to a wellbeing economy, etc., with a corresponding phase-out of industries which are detrimental to social-ecological wellbeing;
- growth in some geographical areas, where it is necessary in order to support the meeting of fundamental human needs;
- an increase in pro-SD business models (e.g. co-operatives/social enterprises) and businesses which increase the resilience of local economies by maintaining the flow of money within them, rather than leaching it out to headquarters elsewhere; increase business diversity; serve local needs, etc.

## **Q5. Which of the following best expresses your view on whether there should be a Commissioner for sustainable development and wellbeing?**

- [Fully supportive](#)

Please explain the reasons for your response, including any views on what the key functions of the proposed Commissioner should be (see pages 19 to 20 of the consultation document), what model of governance could be adopted (see page 22 to 23), and whether the Commissioner could play a role in strengthening existing duties or legislation.

**We believe the Bill should create, and place in statute, a new Commissioner to monitor implementation of the Bill, including the statutory duties, with a legal requirement for the commissioner to be both independent of government, and adequately resourced to support public bodies to deliver their duties within the Bill.**

The Commissioner should:

- help to build the capacity of public bodies to implement their duty under s.44(1)(c) of the Climate Change (Scotland) Act 2009, including through the development and provision of tools, training, impact assessment methods, etc.;

- monitor the implementation of that duty through scrutiny and investigative powers;
- assess delivery of the national outcomes for domestic and international PCSD;
- carry out research and provide advice to the Scottish Government, with this published;
- develop mechanisms to support public participation in scrutiny and decision-making for wellbeing, sustainable development and domestic and international PCSD.

We also outline some key reasons why we consider the Commissioner to be crucial for the success of the bill in putting a coherent approach to wellbeing and sustainable development at the heart of policymaking in Scotland:

- Public bodies must be fully supported to understand, and then successfully implement, the new sustainable development duties imposed on them by the WSD Bill, as well as to monitor, transparently, their usage, to ensure progress is both continuous and progressive and to encourage a culture of learning.
- The interests of future generations and those of the ‘majority world’ are currently not well represented in Scottish democratic processes. The commissioner’s role would be to give a voice to both current and future generations, living both here and elsewhere in the world in the democratic processes of Scotland.
- The creation of a new Commissioner would also support a shift towards long-termism in policy making, with a particular focus on primary prevention. . Current political structures reward short-term policy interventions, even when they incur future costs, on health, the environment and so on. By bringing a future generations lens to decision making, a Commissioner could help to embed the principles of long-termism, and as such should be seen as an investment in prevention, not a cost.
- Aligning all decision making with the goals of achieving sustainable development and wellbeing and the national outcomes can be a challenging task for public bodies. To be successful it will require support, guidance, as well as the collaborative testing and knowledge sharing of new approaches. Adequately resourced, the Commissioner will be important to provide this support and guidance and facilitate knowledge sharing. This will not only be useful for potential new duties within this bill, but will also help public bodies with delivering already existing duties on sustainable development.
- So far there is no body in Scotland with the capacity to independently scrutinise whether Scotland is making progress towards sustainable development, wellbeing and the national outcomes and is creating the conditions for future generations to flourish. An important role of the Commissioner will be to hold public bodies to account for working towards these goals effectively.

## **Q6. What, in your view, should the title of the proposed Commissioner be?**

Please explain the reasons for your response.

**We believe that it is important for the title of the Commissioner to resonate with the public across Scotland and not policymakers in order for the Commissioner to provide visibility and accountability and to realise the full potential of the role.** We know that the language of ‘future generations’ has greater appeal and relevance than some of the other terminology we use to describe public policy. That said, ‘Future generations’, too, does not necessarily capture the global scope of our desire for sustainable development and wellbeing which concerns both current and future generations, living both here and elsewhere in the world.

This leaves a number of potential options you might want to consider in your response, for example:

- Future Generations Commissioner (for Scotland)
- (Scottish) Commissioner for Future Generations and Wellbeing
- (Scottish) Commissioner for Future Generations and Sustainable Development
- (Scottish) Commissioner for Sustainable Development and the Wellbeing of Future Generations

**Q7. Which of the following best expresses your view on whether there is a need for duties for public bodies to promote sustainable development and wellbeing in policy development and implementation?**

- Fully supportive

Please explain the reasons for your response including views on any barriers to implementation of these duties and on how the effectiveness of implementation could be measured.

We consider it important that the Bill strengthens the duties on public bodies to pursue sustainable development and wellbeing, **because it is clear that current duties are not sufficiently clear and coherent to enable effective action on the environmental and social challenges that are impacting the wellbeing of current and future generations.**

In particular, the WSD Bill could strengthen the existing duty in the Climate Change (Scotland) Act 2019 for public bodies to mainstream sustainable development.

In some cases, public bodies may find duties conflict, based on their founding legislation. One such example might be the economic growth imperative for Scottish Enterprise, set out in the Enterprise & New Towns (Scotland) Act 1990. Hence, provisions should be made to resolve any conflicts. This could be pursued on a ‘case-by-case’ basis, especially where there are prominent conflicts. However, the WSD Bill could also amend the Climate Change (Scotland) Act 2019 so that, once conflicting duties have been identified, the Act outlines a requirement for a transparent process that seeks to resolve this conflict as far as possible, reflecting the imperative of ‘policy coherence for sustainable development’. Certain ‘exemptions’ may be necessary for extreme circumstances, however, in theory, this amendment could apply in all cases.

In your consultation response you might also want to consider the following points:

- The main purpose of the bill is not to add a lot of extra duties on public bodies, but to strengthen, clarify and streamline existing duties around sustainable development, wellbeing and the national outcomes, many of which are currently falling short on delivery.
- The national outcomes, currently set out in the National Performance Framework, are the key to translating overarching goals of sustainable development and wellbeing into concrete outcomes for Scotland. The bill provides an important opportunity to create a unified approach to delivering Scotland’s national outcomes, through relocating the national outcomes (Part 1 of the Community Empowerment (Scotland) Act 2015) into the Wellbeing and Sustainable Development Bill, as part of efforts to establish greater clarity for public bodies. Recent evidence suggests that the existing duty on public bodies to “have regard to the national outcomes” is not strong enough to deliver its ambition. Instead, a duty to “promote sustainable development and wellbeing in policy development and implementation” is more positive and tangible than existing duties and will therefore improve the effectiveness of implementation.



- Therefore, as well as being relocated, Part 1 of the Community Empowerment Act should be amended to apply to some of the duties that the existing Community Empowerment Act has conferred on Scottish Ministers, so that:
  - when Scottish Ministers set new national outcomes, they must be able to show how they will support wellbeing, Sustainable Development and PCSD.
  - when Scottish Ministers are setting new national outcomes, or revising existing ones, they will have to do more to support meaningful public participation.
  - before Scottish Ministers set new, or revise existing, national outcomes, the Parliament will have to be allowed more time to scrutinise draft versions. In 2018, the convenor of the lead Scottish Parliament committee said, due to a shortage of time, the committee was “unable to give any consideration to other committees’ responses” and issued a “plea for more scrutiny time in the future”.
  - when reporting on national outcomes, Scottish Ministers will have to explain how they are coherent and have supported PCSD.
  - Scottish Ministers will be required to produce a framework for the delivery/implementation of national outcomes. This could set out the policy, spending and other measures put in place, alongside a clear indication of how progress will be assessed – with these updated on a continuous basis.
  - Scottish Ministers will be required to report on the delivery of national outcomes more regularly. Currently, they “must prepare and publish reports about the extent to which national outcomes have been achieved”. However, reports must only be prepared and published “at such times as the Scottish Ministers consider appropriate”. Improving the frequency and quality of reporting on national outcomes would enhance accountability and boost the status of the outcomes within decision-making.
  
- Even if the Bill is mostly aimed at strengthening existing duties, it will be vital that public bodies are given clear guidance, sufficient support and the necessary tools in order to implement them. Some suggestions for this include:
  - The Future Generations Commissioner can play an important role in providing this support and there is a chance for Scotland to learn from examples of other countries, such as New Zealand or Wales.
  - Public bodies can also be supported around implementation, such as through the provision of impact assessment tools and toolkits. Scotland’s Adaptation Capability Framework is useful for what might be needed in terms of support for public bodies to implement specific duties, including ‘understanding the challenge’. However, it may be worth considering how a bespoke Scottish toolkit will combine support to implement specific aspects of duties with the broader implementation of wellbeing and PCSD. There are already toolkits on the latter available.

## Financial Implications

**Q8. Any new law can have a financial impact that would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?**

- a significant reduction in costs

Please explain the reasons for your response, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

It is important to recognise that this legislation requires significant investment in order to be effective. It is likely that the office of a Future Generations Commissioner would demand a budget that is equivalent to that of the Children and Young People's Commissioner for Scotland.

**The function of this office, however, would be to support policy development that reduces future costs and we consider that the reductions in future costs will likely be significantly larger than the investment to resource the role of the Commissioner.** A report by the Wellbeing Economy Alliance, "Failure Demand: Counting the true costs of an unjust and unsustainable economic system" , estimates that the Scottish and UK governments spend hundreds of millions of pounds each year on demands that could be avoided in a more preventatively designed economy. A report by Carnegie UK, Being Bold: Building Budgets for Children's Wellbeing , makes the fiscal argument for investing in early years and prevention as a way to avoid future costs – from healthcare costs (both mental and physical) to reduced tax revenue and higher welfare spending, and from criminal justice to demand for emergency services.

By placing duties on public bodies to promote wellbeing and sustainable development, and by creating a commissioner that supports and scrutinises implementation, this legislation should shift spending upstream to the sorts of policy intervention that reduces demand for public services by creating better outcomes for people and planet.

## Equalities

**Q9. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.**

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your response and if there are any ways you think the proposal could avoid negative impacts on particular people.

This proposed Bill would positively impact equalities in Scotland.