

Recommendations
for Policymakers



Scotland's International
Development Alliance

Towards a Wellbeing and Sustainable Development (Scotland) Bill



Based on research
carried out by:

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FOREWORD

The pressing economic, social, and environmental challenges of our time mount every day. The 6th assessment report of the IPCC reminded the world, once again, of the imminent dangers of global heating, including severe loss of biodiversity. Soaring global food prices are threatening the world's most vulnerable with famine, just as those in Scotland face an unprecedented cost of living crisis.

It is clearer than ever before that our systems are not working for people, or for the planet. So, the time for action is now.

Scotland prides itself on being a good global citizen and politicians have made important commitments recently, to address these pressing issues, including as part of the Wellbeing Economy Governments partnership (WEGo). But Scotland has not always been clear on how to deliver on those commitments. That's why legislating on wellbeing and sustainable development in Scotland is necessary, and could be ground-breaking, when it comes to joined-up action on building a sustainable future.

Ahead of the 2021 Scottish Election, the Alliance, and over 70 other organisations from across Scottish civic life, challenged Holyrood's political parties to state their support for legislation that explicitly prioritised wellbeing and sustainable development together. Many did so.

The Scottish Government then put this Bill in their Programme for Government, 2021-22, with a commitment "to place duties on public bodies to take account of the impact of their decisions on sustainable development, here and globally".

This report, based on research carried out on behalf of the Alliance and some of its members, and in partnership with Newcastle University, offers a contribution to the debate around how we do this meaningfully. It by no means covers everything, but I believe the recommendations put forward here offer a way to give force and meaning to commitments on wellbeing and sustainable development, while ensuring that the global impacts of activities here in Scotland are considered, not as an optional extra, but as key both to what we want to achieve and how we do it.

Importantly, while many of the recommendations may read as being about systems, processes and duties, we believe this legislation can also generate a culture of continuous improvement in Scotland; one that encourages, nurtures and supports Scotland to make a progressively enhanced contribution to sustainable development, at home and abroad. This will bolster our credentials as a responsible global citizen, AND back up our ambitions with actions.

Frances Guy
CEO, Scotland's International Development Alliance



EXECUTIVE SUMMARY

The Scottish Government, through its commitment to bring forward a Wellbeing and Sustainable Development (Scotland) Bill¹ (WSD 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.

There is an opportunity to create a world-leading piece of legislation that puts policy coherence for sustainable development, and human and ecological wellbeing, at the forefront of government. This is necessary not only to respond to pressing national challenges and meet the needs of citizens, today, within planetary boundaries, but to ensure that Scotland makes a positive contribution to people, globally, and enables future generations, both here and abroad, to have their needs met.

As global challenges mount, with multiple intersecting crises, the imperative to understand the connection between how our systems and decision-making impact upon poverty, inequality, the ecological crisis and the climate emergency, have never been more important. No longer can we see our consumption habits, fossil-fuel dependency and economic decisions in isolation from what happens elsewhere. But this doesn't happen routinely. Governments, largely, see their role in relation to domestic action, which can give rise to incoherent policies vis-a-vis the global impact.

To realise more joined-up policymaking in this regard, policy development must consider not only the potential impacts in other policy areas, places and into the future, but also ensure that, as a whole, public policy is pro-ecological and pro-social, in order to support the ability of people in Scotland, and elsewhere, to meet their needs now, and in the future.

This report, based on research carried out on behalf of Scotland's International Development Alliance, and in partnership with Newcastle University, makes a range of recommendations that could give force and meaning to commitments on wellbeing and sustainable development, while ensuring that consideration is given to the global impacts of activities here in Scotland in terms of what we want to achieve, and how we deliver on those commitments in that broader context.

It is also important to understand clearly the problem that sustainable development seeks to address, namely, the detrimental effects of the policy of perpetual economic growth as measured by Gross Domestic Product (GDP) on human societies, i.e. un-sustainable development.

Importantly, while many of the recommendations may read as being about systems, processes and duties, the recommendations also position this potentially ground-breaking legislation as a way to generate a culture of continuous improvement in Scotland; and one that encourages, nurtures and supports conversations and joined-up thinking so that Scotland makes a progressively enhanced contribution to sustainable development, at home and abroad. This will not only bolster our credentials as a responsible global citizen, but also back up our ambitions with actions.

This report consists of seven chapters. After an introductory chapter, in Chapter 2, we identify key features of the Scottish and international context on sustainable development legislation, looking at existing practice here and abroad. In Chapter 3, we offer recommendations, with detailed suggested text, on the stated purpose and key definitions of a possible Bill, drawing on lessons learned in Wales and other contexts. Chapter 4 addresses Scotland's national outcomes and Chapter 5 considers, in detail, how public bodies in Scotland's current duties could be amended to embed sustainable development, and some of the pitfalls and challenges in operationalising these duties. Chapter 6 addresses the specific need to support Scotland's transition to a wellbeing economy. Chapter 7 considers potential accountability for the Bill, focusing on the powers and duties of a Wellbeing and Sustainable Development Commissioner.

¹ A Fairer, Greener Scotland: Programme for Government 2021-22, p9

Summary of Recommendations



Establishing a clear purpose and definitions.

Recommendation 1:

The proposed long title and/or purpose of the Act should refer to the key concepts of:

- sustainable development
- domestic and international policy coherence
- transition to a wellbeing economy in the service of sustainable development and the delivery of enhanced wellbeing in Scotland and globally.

Recommendation 2:

Clear and rigorous definitions of the key concepts of sustainable development, and policy coherence for sustainable development, wellbeing and a wellbeing economy, should be set out in a Wellbeing and Sustainable Development Bill.

Recommendation 3:

Sustainable development should be defined in the Bill as follows: sustainable development can be defined as the development of human societies in ways which do not threaten planetary boundaries, and which, equitably, supports the capability of present and future generations across the world to meet their needs.



Strengthening Scotland's national outcomes for sustainable development.

Recommendation 5:

Part 1 of the Community Empowerment (Scotland) Act 2015 should be amended (or lifted entirely, amended and inserted into this new WSD Bill legislation), to ensure that national outcomes support sustainable development including domestic and international PCSD.

Recommendation 6:

National outcomes should be determined following meaningful, open and transparent public engagement, with this then followed by both comprehensive reporting on progress and enhanced public and parliamentary scrutiny.

Recommendation 4:

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 in Chapter 3, it should be defined, clearly, 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
 - maximizes 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.

Recommendation 7:

A requirement for Scottish Ministers to develop and maintain a framework for the implementation/delivery of national outcomes should be added to Part 1 of the Community Empowerment Act or alternatively, included as part of the WSD Bill. This framework should detail policy, spending and other measures, setting out how progress will be assessed.



Ensuring existing sustainable development duties work properly.

Recommendation 8:

The WSD Bill should strengthen the existing duty in the Climate Change (Scotland) Act 2009 for public bodies to mainstream sustainable development.

Recommendation 9:

It may be possible to further amend Section 44 of the Climate Change (Scotland) Act 2009 by adding a new

clause which serves to resolve existing conflicts in public bodies' statutory duties. For example, a clause after 44(1), stating that "where the implementation of any other statutory duty appears to conflict with 44(1) (c), a transparent resolution must be sought with regard to policy coherence for sustainable development as defined in the Wellbeing and Sustainable Development (Scotland) Act 202X".



Supporting the transition towards a wellbeing economy in Scotland that fosters sustainable development and wellbeing.

Recommendation 10:

The Bill should 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 meet their needs without having a detrimental impact on the ability of people in other countries, and future generations to meet theirs.

Recommendation 11:

The Bill should contain an indicator, an index, or a dashboard of indicators that provide a transparent and continuously updated assessment of Scotland's contribution to human and ecological wellbeing.

This should become the key driver of public policy and, in so doing, support the displacement of economic growth as the dominant measure of national progress.

Recommendation 12:

The WSD Bill should ensure that public bodies are required to ensure their engagement with the private sector, including that their procurement procedure is fully consistent with the statutory duties and overarching ambitions of the Bill. This would include provisions to allow for public bodies' interactions with the private sector to be better scrutinised.



Establishing a support and accountability structure.

Recommendation 13:

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 transparently monitor their usage, to ensure progress is both continuous and progressive and to encourage a culture of learning.

Recommendation 14:

The WSD Bill should create, and place in statute, a new 'Wellbeing and Sustainable Development 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 terms of the Bill.

List of abbreviations

GDP	Gross Domestic Product
IPCC	Intergovernmental Panel on Climate Change
NPF	National Performance Framework
PCSD	Policy coherence for sustainable development
SD	Sustainable development
SDGs	Sustainable development goals
SSN	Sustainable Scotland Network
WEAll	Wellbeing Economy Alliance
WEGo	Wellbeing Economy Governments' partnership
WSD	Wellbeing and sustainable development
WSD Bill	Wellbeing and Sustainable Development (WSD) Bill

Contents

Foreword	2
Executive Summary	3
Establishing a clear purpose and definitions	4
Strengthening Scotland's national outcomes for sustainable development	4
Summary of Recommendations	4
Ensuring existing sustainable development duties work properly	5
Supporting the transition towards a wellbeing economy in Scotland that fosters sustainable development and wellbeing	5
Establishing a support and accountability structure	5
List of abbreviations	6
1. Introduction	8
Why we need a Wellbeing and Sustainable Development Bill	9
2. National and international context	11
Scottish commitment to a WSD Bill	12
Scottish legislation on sustainable development and wellbeing	12
Policy coherence for sustainable development	13
Sustainable development legislation in other countries	14
The Wellbeing of Future Generations (Wales) Act 2015	14
UK Wellbeing of Future Generations Bill	14
Other country contexts	14
Key learnings	15
3. Purpose and key concepts of a WSD Bill	16
Purpose	17
Key definitions	17
Defining sustainable development	18
Defining policy coherence for sustainable development	20
4. Strengthening Scotland's national outcomes for sustainable development	22
5. Ensuring existing sustainable development duties work properly	26
The public bodies' sustainable development duty	27
Prioritising sustainable development duties	29
Challenges for a public duty-based approach	29
6. Supporting a transition to a wellbeing economy	31
What is wellbeing?	32
7. Establishing an accountability and support structure	36
A Role for Audit Scotland	39
A Role for the Scottish Parliament	39

This paper contains 14 recommendations for the Wellbeing and Sustainable Development (WSD) Bill, committed to in the Scottish Government's 2021-22 Programme for Government, *A fairer, greener Scotland*. The recommendations aim to build on existing legislation in five key respects:

A. Establishing a clear definition of sustainable development (SD), and of policy coherence for sustainable development (PCSD) as a key component of it.

B. Strengthening Scotland's national outcomes, placing them at the service of delivering SD through a 'policy-coherent' approach, while strengthening public and parliamentary consultation requirements, and improving reporting and scrutiny processes.

C. Ensuring that the numerous existing statutory SD duties on public bodies in Scotland are clear, have the requisite priority, and that duty-bearers can be provided with the support and capacity building they need.

D. Supporting the transition towards a wellbeing economy in Scotland that fosters sustainable development and wellbeing.

E. Establishing a support and accountability structure with a Wellbeing and Sustainable Development Commissioner placed at its heart.

These recommendations emerged from research commissioned by Scotland's International Development Alliance. This research included a review of Scottish, Welsh and international legislation and policy, and the views of a range of stakeholders. It focused on the interdependent principles of **wellbeing, sustainable development** and (domestic and international) **policy coherence for sustainable development** (PCSD), which the Alliance advocates as key planks of a WSD Bill. A collation of the underpinning research for this paper is available for download at: www.intdevalliance.scot/how-we-help/policy-and-advocacy.

Why we need a Wellbeing and Sustainable Development Bill

There is strong and growing evidence that human activity is consuming the Earth's resources at a rate and scale that it is undermining the stability of the Earth's system, on which the wellbeing and survival of human societies and individuals depends. We have already disrupted five planetary boundaries beyond safe levels: biodiversity; global cycles of key nutrients, such as nitrogen and phosphorus; the climate system;² land systems;³ and the ability of the Earth's system to cope with man-made or altered substances and life-forms (see Figure 1).⁴ Coupled with this, the dominant global economic system tends to create and deepen inequalities between those who are powerful and advantaged, and those who are not,⁵ both within and between states.

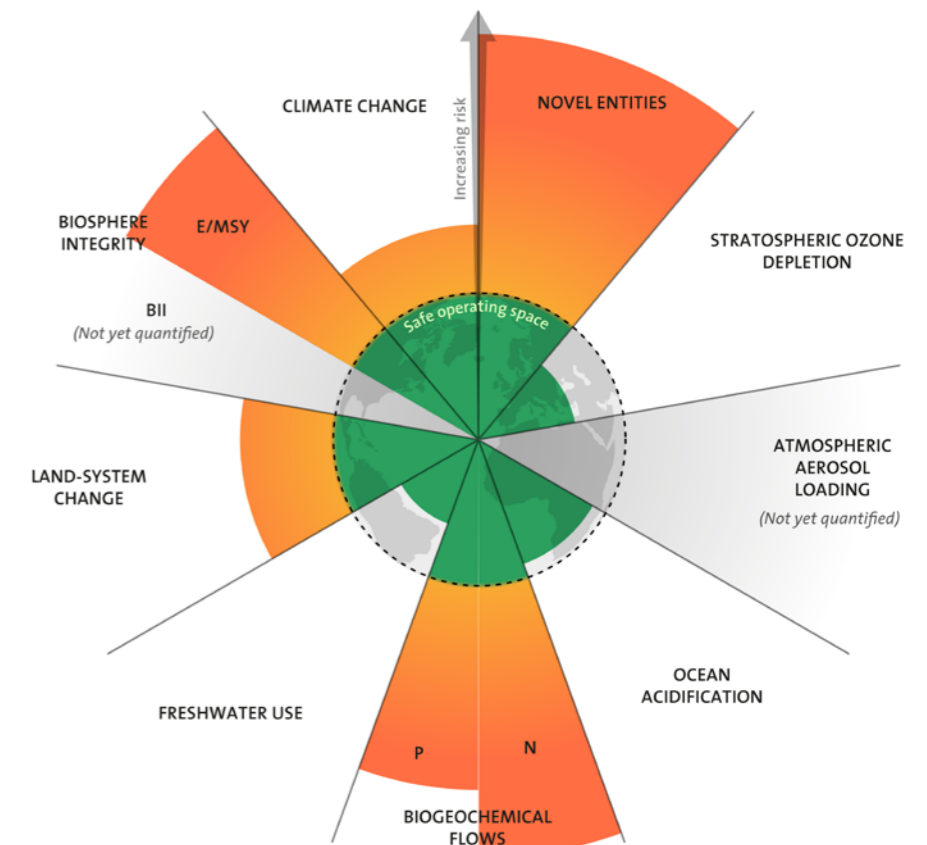


Figure 1: An Analysis of Planetary Boundaries

² Rockstrom, J. et al 2009: A Safe Operating Space for Humanity, *Nature* 461(24): 472-475.

³ Steffen, W. et al 2015: Planetary Boundaries: guiding human development on a changing planet, *Science* 347(6233): 736.

⁴ Persson, L. et al 2022: Outside the Safe Operating Space of the Planetary Boundary for Novel Entities, *Environmental Science & Technology* 56(3): 1510-1521.

⁵ Piketty, T. 2017: *Capital in the Twenty-First Century*, The Belknap Press, Cambridge, Massachusetts.

The wellbeing of humanity depends, more than ever, on whether our societies can adopt more sustainable models of development – those which respect planetary boundaries⁶, and are organised so as to ensure that people living across the globe, now and in the future, are able to meet their fundamental human needs. This requires policy coherence for sustainable development (PCSD) – ‘joined-up’ policy – which seeks to ensure the wellbeing of humans everywhere and in the future through the sustainable development of our societies. This interconnected triad of concepts – sustainable development, wellbeing, and policy coherence – is represented in Figure 2, below, and the meaning of each is outlined in Chapters 3 (SD, PCSD) and 6 (Wellbeing). This paper also recognises that sustainable development is not possible without addressing social and economic inequalities.

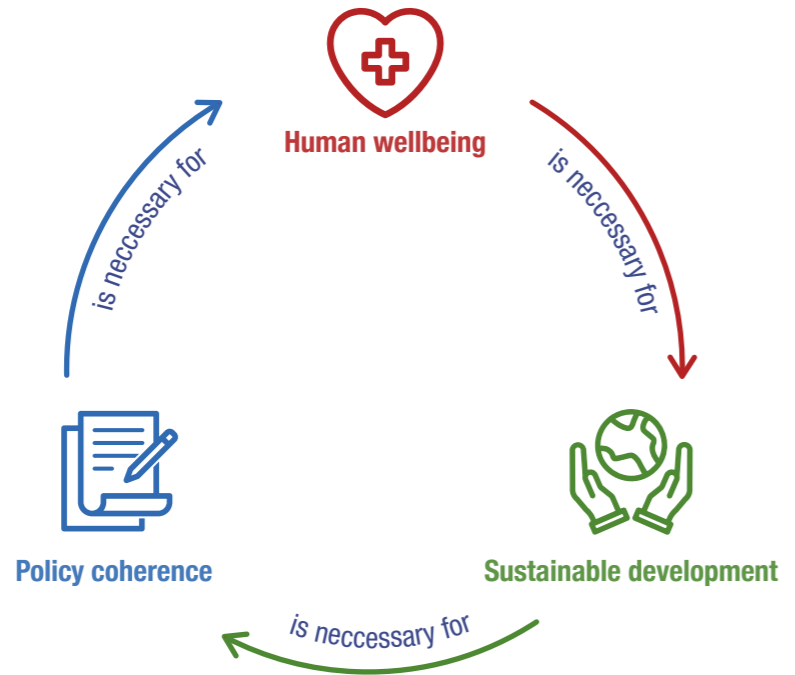
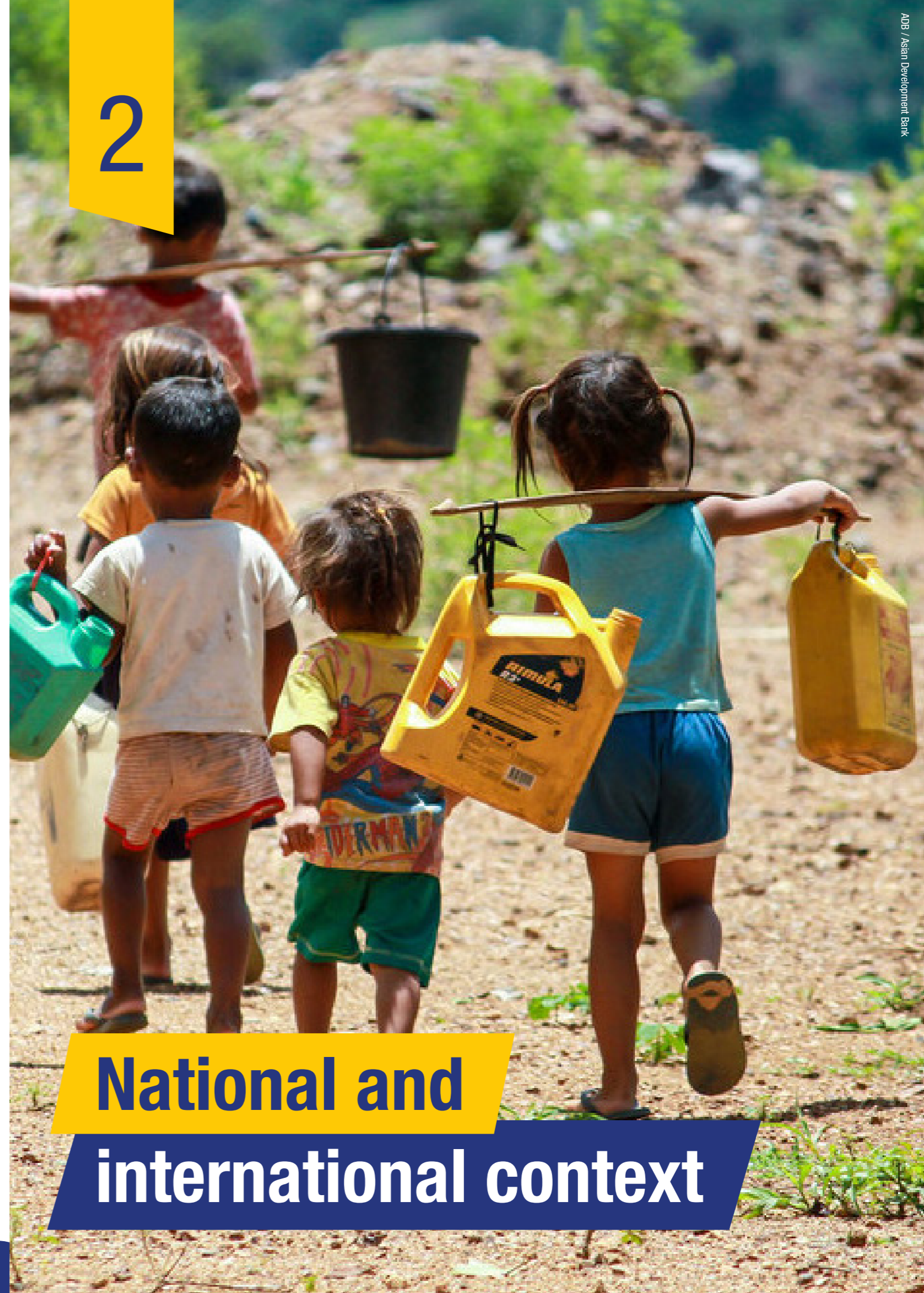


Figure 2: The Wellbeing-sustainable development-policy coherence circle

Legislation for sustainable development 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 publics, and create the structures and processes through which concepts can take hold and flourish. The recommendations here focus on what the upcoming Wellbeing and Sustainable Development Bill in Scotland could do in these respects.

Scotland’s Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 was world-leading in its ambition to address one country’s environmental impact on others. The proposed WSD Bill could build on this to require international policy coherence across all policy areas, while introducing some clear provisions for implementation.

2



National and international context

6 Folke, C. et al. (2021): ‘Our future in the Anthropocene biosphere’, *Ambio*, 50(4): 834–869. doi:10.1007/s13280-021-01544-8.

Scottish commitment to a WSD Bill

There is widespread political support in Scotland for a WSD Bill. The 2021 election manifestos of four of the five political parties with seats in the Scottish Parliament made relevant commitments around sustainable development legislation.⁷ The most relevant explicit commitments are summarised in Table 1, below.

	Scottish National Party (SNP) ⁸	Scottish Labour ⁹	Scottish Green Party ¹⁰	Scottish Liberal Democrats ¹¹
WSD Bill	✓	✓		✓
International PCSD	✓			✓
Wellbeing economy	✓	✓	✓	
Future generations	✓		✓	✓
Climate change	✓	✓	✓	✓
Other			Future Generations Commissioner; Just Transition to net zero	Sustainable Development Goals

Table 1: Explicit 2021 manifesto commitments to a WSD Bill and its key planks

Scottish legislation on sustainable development and wellbeing

There is already a significant body of Scottish Parliament legislation which includes provisions for sustainable development. Due to an active stakeholder lobby for SD in Scotland, as well as (varying) support from each Scottish Government to date, analysis conducted for this paper suggests that 10%- 11% of Acts of the Scottish Parliament contain explicit SD clauses. This proportion has remained consistent since 2014.¹² By November 2021, we found 37 very varied Acts, made over two decades, which provide for a wide range of SD functions, including:

- Setting out SD as an overarching aim, purpose or function, e.g. the National Parks (Scotland) Act 2000.
- Conferring SD duties on Scottish public bodies, e.g. the Water Industry (Scotland) Act 2002.
- Providing for Scottish Ministers to make pro-SD regulations, e.g. the Building (Scotland) Act 2003.
- Awarding powers to a body, so that it can intervene in a decision that would affect, adversely, SD, e.g. the Crofting Reform etc. (Scotland) Act 2007.
- Requiring Scottish Ministers to make plans for SD, e.g. the Marine (Scotland) Act 2010.

⁷ In 2021, the Sustainable Development Goals (SDG) Network Scotland sent an open letter to the First Minister and leaders of other Scottish political parties. It urged “every political party to state their support to legislation that explicitly prioritises Wellbeing and Sustainable Development together as we face global challenges on a scale no one has seen before.”

⁸ Scottish National Party, 2021: Scotland’s Future, Scotland’s Choice, p.72 - https://issuu.com/hinksbrandwise/docs/04_15_snp_manifesto_2021_a4_document?mode=window

⁹ Scottish Labour Party, 2021: Scottish Labour’s National Recovery Plan, p.77 - <https://scottishlabour.org.uk/wp-content/uploads/2021/04/Scottish-Labours-National-Recovery-Plan.pdf>

¹⁰ Scottish Green Party, 2021: Our Common Future, p.33 - https://greens.scot/sites/default/files/ScottishGreens_2021Manifesto_Full_web_version.pdf. Note: although an explicit commitment to a WSD Bill does not appear to be included, this manifesto is strongly pro-ecological and pro-social

¹¹ Scottish Liberal Democrats, 2021: Put Recovery First, p.33, 51 - https://d3n8a8pro7vnm.cloudfront.net/no2nuisancecalls/pages/14838/attachments/original/1618577646/2021_Scottish_Liberal_Democrats_Manifesto.pdf?1618577646

¹² Erasmus, I. 2021: Sustainable Development Thinking: disrupting business as usual, unpublished doctoral dissertation.

- Requiring pro-SD guidance and codes of practice, e.g. the Wildlife & Natural Environment (Scotland) Act 2011.
- Requiring certain pro-SD targets to be set, e.g. the Climate Change (Emissions Reduction Targets) (Scotland) 2019 Act.
- Requiring reporting on SD, e.g. the Scottish National Investment Bank Act 2020.

One of the key problems with SD clauses is that there may be conflicts with other statutory and policy requirements. One stakeholder informed us that “most organisations have heaps of duties placed upon them, and can ultimately pick and choose on which ones they give emphasis to.”

Another is that the concept of sustainable development is interpreted in different ways, and efforts to enshrine a single definition of SD in legislation has been resisted over the last two decades. This means that these clauses are not as effective as they could be. Without a clear definition, there is no shared understanding of SD, making this concept difficult to understand and apply, and also difficult to hold duty-bearers accountable on any aspect of it.

Similar to ‘sustainable development’, the term ‘wellbeing’ occurs in 40 Acts of the Scottish Parliament (almost 12%) in a variety of contexts.¹³ Again, ‘wellbeing’ is a term which is open to widely varying interpretation. Wellbeing clauses in Scottish legislation often relate to SD. For example, under the Procurement Reform (Scotland) Act 2014, a ‘contracting authority’ must comply with the sustainable procurement duty to consider how it can “improve the economic, social, and environmental wellbeing of the authority’s area” (s.9(a)(i)).

Policy coherence for sustainable development

Whilst ideas of wellbeing and sustainable development are not new to Scottish legislation, it is only recently that ‘policy coherence for sustainable development’ (PCSD), as a term, has begun to come into general use in policy circles. Our research suggests that 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.¹⁴

The Scottish Government, arguably, has made some attempts to foster domestic policy coherence. For example, the first iteration of Scotland’s National Performance Framework (NPF) in 2007 perhaps sought to address this, with an aim that:

“The whole of the public sector will, for the first time, be expected to contribute to one overarching purpose and all performance management systems will therefore be aligned to a single, clear and consistent set of priorities.”¹⁵

The purpose in question, then, was ‘sustainable economic growth’, elaborated as conventional economic growth, measured by GDP, and five other growth-supporting ‘purpose targets’. This purpose has been criticised by many over the 14 years since the NPF was developed, including by the Scottish Parliament,¹⁶ as well as by various civil society actors in Scotland.¹⁷

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.

¹³ As at 08.02.2022.

¹⁴ Dissanayake, R 2021: The Roots of Policy Incoherence: Domestic Policy, Global Public Goods, and International Development, Centre for Global Development, 13: 8732.

¹⁵ Scottish Government - Scottish budget spending review 2007, p45 <http://www.gov.scot/Resource/Doc/203078/0054106.pdf> (webarchive.org.uk)

¹⁶ Local Government & Communities Committee 2018: Parliamentary Consultation on The Scottish Government’s Revised National Outcomes: <https://archive2021.parliament.scot/parliamentarybusiness/currentcommittees/108188.aspx>

¹⁷ It may be worth noting that subsequent versions of the NPF (2011, 2016, 2018) do not appear to allude to policy coherence.

Sustainable development legislation in other countries

While not exhaustive, this section provides a summary of some learnings that may be useful in the drafting of a Scottish WSD Bill. A collation of the underpinning research for this paper, including more details on learning from other countries, is available for download at: www.intdevalliance.scot/how-we-help/policy-and-advocacy.

The Wellbeing of Future Generations (Wales) Act 2015

Since Welsh devolution in 1998, first the Welsh Assembly, and later, in 2006, the Welsh Government has been required to promote SD. In 2015, the Welsh Assembly passed the Wellbeing of Future Generations (Wales) Act¹⁸. As this has been in force for several years, it provides some important lessons for Scotland. Chief among these are:

1. Definitions: The Welsh Act defines SD in terms of wellbeing, but does not define wellbeing. Recent evaluation of the Welsh Act¹⁹ found that what was meant or intended by several central concepts (e.g. SD or wellbeing), caused confusion in the Act's implementation. Wellbeing, more so than SD, caused confusion due to a different definition in the Social Services and Wellbeing Act.

2. Policy coherence for sustainable development: At a domestic level, Nesom & MacKillop (2021) show that the Welsh Act has gone some way to creating a context for thinking about, and addressing, cross-cutting issues. However, they highlight the difficulty of cross-cutting work when SD policies are formulated at a national level in traditional silos, and old ways of thinking about governance and public service delivery remain unchallenged.¹⁶

The Globally Responsible Wales Goal within the Act remains one of the least understood of the seven goals, with challenges associated with the identification of clear indicators as well as implementation. According to the Future Generations Commissioner for Wales, public bodies are not demonstrating clear and credible accounts of their positive contributions to the world.²⁰

3. Future Generations Commissioner: Stakeholders interviewed as part of the research underpinning this report felt that the Future Generations Commissioner role is too weak and is under-resourced, while other commissioners in Wales have more teeth. It was also felt that effective scrutiny mechanisms should have been built into the legislation to ensure that there is scope to review impact and progress, including a requirement for post-legislative scrutiny.

UK Wellbeing of Future Generations Bill

As at April 2022, a Private Members' Bill on the Wellbeing of Future Generations Bill is at the second reading stage in the House of Commons, where its general principles will be debated.²¹ This Bill shares key features with the Welsh Act (e.g. in establishing national wellbeing goals and a Future Generations Commission). Notably, it seeks to extend duties for wellbeing and future generations to the Office of Budget Responsibility, and to the portfolio of one Minister in each government department. It also seeks to establish a parliamentary committee for future generations.

Other country contexts

Almost all countries have a range of legislation covering issues related to sustainable development, from human rights, equalities, employment, land use to biodiversity, ecosystem conservation, forestry and increasingly, climate change –

¹⁸ <https://www.futuregenerations.wales/about-us/future-generations-act/>

¹⁹ Nesom, S. & MacKillop, E., 2021: What matters in the implementation of sustainable development policies? Findings from the Well-Being of Future Generations (Wales) Act, 2015. *Journal of Environmental Policy & Planning*, 23(4): 432-445.

²⁰ <https://futuregenerations2020.wales/english?category=global>

²¹ [Wellbeing of Future Generations Bill \[HL\] - Parliamentary Bills - UK Parliament](#)

with distinct structures of monitoring and accountability.

Globally, however, legislation focused specifically on sustainable development is relatively unusual. Often such legislation is framed, at least partly, with a focus on representing the interests of future generations, rather than the interests of communities internationally. Some legislation favours detailed, principled-based definitions of key terms (e.g. Canada), while others leave ideas such as sustainable development (Malta²²) relatively undefined. Policy coherence for sustainable development is directly identified in some legislation (Wales, Malta) and indirectly in others (e.g. through Canada's principle of 'integration'). One point of commonality stands out: all these laws establish lines of reporting and some kind of 'watchdog' body, whether a commission, commissioner, or guardian.

A number of countries – prominently, Iceland and New Zealand – identify themselves as working towards 'wellbeing economies', and are adopting national wellbeing indicator frameworks in response.²³ Current progress in the translation of these frameworks and commitments into policy and law is limited and unclear. It should be noted that both countries are involved in the Wellbeing Economy Governments' initiative, within which, the Scottish Government also plays a prominent role.²⁴

Key learnings

Based on the learning from Wales about the problematic nature of unclear definitions, as well as previous experience in this regard in Scotland, we recommend that clear and rigorous definitions of key terms – such as 'sustainable development' and 'policy coherence for sustainable development' – are considered to be critical concepts of the proposed WSD Bill in Scotland, and suggest some wording for these in Chapter 3 (we undertake a similar exercise for 'the wellbeing economy' in Chapter 6).

Based on the evidence that, despite stated commitments, progress towards the achievement of 'wellbeing economies' appears to be limited in Scotland and elsewhere, Chapter 6 makes a number of recommendations for how a WSD Bill could support an economic transition.

To ensure the WSD Bill leads to substantive change, and to reflect learning from Wales, in Chapter 7, we suggest that a Wellbeing and Sustainable Development Commissioner in Scotland should be accorded duties, powers and resources to support duty bearers to fulfil their statutory duties, scrutinise their subsequent delivery, and to hold them, transparently, to account. In order that a Scottish Commissioner is sufficiently empowered to fulfil this critical role, we recommend that they be properly resourced and mandated.

²² [Sustainable Development Act - ACT521, 2012](#)

²³ [Indicators for Measuring Wellbeing \(government.is\); Wellbeing Budget 2020: Rebuilding Together \(treasury.govt.nz\)](#)

²⁴ <https://www.gov.scot/groups/wellbeing-economy-governments-wego/>



Purpose and key concepts of a WSD Bill

Purpose

As outlined in Chapter 2, a significant number of Acts of the Scottish Parliament include SD clauses. This, and the broad cross-party political support for a new WSD Bill, reflect both a track record to build upon, and a desire for greater progress in this area. We suggest, therefore, that the proposed WSD Bill should provide a framework which can support the implementation of SD, including by ensuring that public bodies are required and supported to achieve this, while transparently tracking the progress achieved.

In the following chapters, we make recommendations about how a WSD Bill could give force to the large number of current SD and wellbeing clauses within existing legislation in Scotland, in order to ensure that:

- they are implemented
- those responsible for their implementation can be supported and transparently held to account
- where necessary, they are justiciable and/or enforceable.

This Bill presents an opportunity to ensure that domestic and international PCSD becomes an integral aspect of public sector implementation of SD, to further support a shift to a more sustainable pathway, which must happen at sub-national, national and international scales. In addition, as a transition to a sustainable and fair economy – one focused on the delivery of ecological integrity and social equity in support of long-term human wellbeing – is central to the delivery of sustainable development, we suggest some recommendations to support this.

Firstly, the key components, noted above, should be set out, explicitly, in the long title of the WSD Bill – thereby positioning them as being core to the Bill's purpose:

Recommendation 1:

The proposed long title and/or purpose of the Act should refer to the key concepts of:

- sustainable development
- domestic and international policy coherence
- transition to a wellbeing economy in the service of sustainable development and the delivery of enhanced wellbeing in Scotland and globally.

Key definitions

How key concepts are interpreted shapes public policy and implementation. Clearly-defined concepts are more likely to support accountability, enforcement, and justiciability than vague ones. For legal clarity and force, key terms must be defined. As noted in Chapter 2, poor definitions, e.g. in the Welsh Future Generations Act, can hamper implementation.

Recommendation 2:

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 a Wellbeing and Sustainable Development (WSD) Bill.



Defining sustainable development

A study by Purvis *et al*²⁵ found that the lack of a rigorous scientific definition has prevented the operationalisation of sustainable development. In order to be effective, such a definition must embody both the problem and a solution.²⁶ It is therefore important to understand clearly the problem that SD seeks to address: that of the detrimental effects of the policy of perpetual economic growth as measured by Gross Domestic Product (GDP) on human societies, i.e. unsustainable development.

As outlined in Chapter 1, this policy, pursued by the vast majority of states, is damaging both the ecological systems and processes we depend on for our survival, and fostering the pernicious national, international and inter-generational inequality and inequity that undermines human wellbeing.²⁷

The World Health Organisation has described this focus on GDP as a “pathological obsession” with an “inappropriate measure of progress that perversely rewards profit-generating activities which harm people and destroy ecosystems, undermining what we really value.”²⁸ GDP growth has come to be viewed by many as a goal in and of itself, rather than a means of delivering societal outcomes. Economic growth, when used to support health and education, and when those living in poverty are participants, has helped to reduce extreme poverty, globally. At the same time, GDP has serious limitations – including that it doesn’t consider wellbeing, environmental damage, or the informal economy, including unpaid work. Crucially, the gains from growth are also often captured by those with the most.²⁹

Thus, the solution embodied in the concept of SD is the development of human societies which supports ecological integrity and social equity, including by replacing the overarching goal of growth with that of wellbeing.

A competing conception of SD is that of the three pillars – economic, social and environmental. This model appears to have been derived from the report of the 1987 Report of the United Nations World Commission on Environment & Development.²⁹ Arguably for political reasons, the commission recommended increased growth as the remedy for the social and environmental/ecological ills of growth.

The three-pillars model suggests, in its conventional framing, giving equal weight to each element – the economy, environment and society. However, as outlined above, it is important to note that an economy cannot be an end in itself, as it is a means to meeting our individual, social and ecological needs³⁰, and should be structured, therefore, to serve them, rather than vice versa. In addition, the three-pillars model has led to ‘balancing’ approaches, whereby economic growth is balanced against environmental and social concerns, resulting in trade-offs that do not resolve policy conflicts. This is likely to have hampered progress towards SD, as trade-offs can help to maintain the status quo, by serving to limit or prevent progress. This narrative is prevalent in public policy, and is propagated in some UN initiatives, including, it could be argued, in the sustainable development goals (SDGs)³¹.

We advocate, therefore, for a statutory definition of SD which is focused on the protection of ecological integrity and the pursuit of socially equitable wellbeing for people in Scotland and elsewhere, both now and in the future. Specific principles should be offered as part of the definition to unpack and underpin the idea of SD, to address specific national-level needs, and to offer more guidance for operationalisation. Examples of such an approach can be found in legislation elsewhere, e.g. Wales and Canada, which include general principles to inform implementation, as well as specific principles addressing Welsh culture and language and the indigenous people of Canada, respectively.³²

²⁵ Purvis, B, et al 2019: Three pillars of sustainability: in search of conceptual origins, Sustainability Science 14(3): 681-695.

²⁶ Blunden, A. 2012: Concepts@ a critical approach, Brill, Leiden,

²⁷ Jackson, T. 2017: Prosperity without Growth, Routledge, London.

²⁸ The WHO Council on the Economics of Health for All, Valuing Health for All: Rethinking and building a whole of-society approach (March 2022): https://cdn.who.int/media/docs/default-source/council-on-the-economics-of-health-for-all/who_councilbrief3.pdf?sfvrsn=b121f943_11&download=true

²⁹ Oxfam, An Economy for the 99% (January 2017): https://www-cdn.oxfam.org/s3fs-public/file_attachments/bp-economy-for-99-percent-160117-en.pdf

³⁰ Carnegie UK Trust & Sustainable Development Commission Scotland 2011: More than GDP: measuring what matters - <https://www.carnegieuktrust.org.uk/publications/more-than-gdp-measuring-what-matters/>

³¹ Coscieme et al, 2020: Going beyond Gross Domestic Product as an indicator to bring coherence to the Sustainable Development Goals, Journal of Cleaner Production, Volume 248.

³² The Welsh Act provides these further elements to guide implementation – short and long term needs; policy coherence in relation to the wellbeing goals on prosperity, resilience, human health, social equality, cohesive communities, Welsh culture and language, and global responsibility; inclusivity; collaboration; preventative expenditure. For Canada’s principles, see: [Federal Sustainable Development Act](#) Article 4.

The principles suggested here could serve to guide public bodies in Scotland in the implementation of their SD duties, as outlined in Chapter 4.

Recommendation 3:

SD should be defined in the Bill as follows:

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.

Key principles to elaborate this definition could be added underneath, including:

1. The principle of respect for planetary boundaries, including through preventative, precautionary, and regenerative approaches.
2. 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.
3. The principle of (human or social-ecological) wellbeing instead of economic growth as the core societal objective.
4. The principle of indivisibility and interdependence across public policy, requiring policy coherence for sustainable development in response.
5. The principle of doing no harm internationally and good global citizenship.
6. The principle of evidence-based policymaking.
7. The principle of openness and transparency – the availability of information on efforts to achieve sustainable development is vital to engagement and accountability.
8. 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.

Finally, although a global perspective is implicit within the social-ecological definition of SD, it appears that states largely see their role in relation to domestic action, which can give rise to policies that are incoherent between domestic and global SD, such as those which lead to the off-shoring of dirty industries to countries where regulatory social and environmental protections are weaker. Thus, although we have suggested that policy coherence principles should be included under a rigorous social-ecological definition of SD, we recommend also that a clear definition, and some specific provisions in support of PCSD, should be included as follows.

Defining policy coherence for sustainable development

Policy coherence for sustainable development (PCSD) is an approach to policymaking that aims to ensure that public policies and other actions do not undermine each other. To this end, potential interactions between decisions taken in one policy area and those focused within other areas – including those which may not immediately appear to be closely related – must be considered at the policy development stage.

PCSD is an approach that emphasises the need for consistency, mutual support, and integration across policies in support of sustainable development. It requires policymakers to foster, simultaneously, synergies and minimise trade-offs between policies, and, in particular, to consider the **transboundary** impact of policies across the world, and the **long-term** impacts of policies on future generations – not just ‘here and now’ but ‘elsewhere’ and ‘later’.³³

To realise PCSD, policy development must not only take into account potential impacts in other policy areas, places and in the future, but must also ensure that, as a whole, public policy is pro-ecological and pro-social. Only such a policy approach can support the ability of people in Scotland, and elsewhere, and in the future, to meet their needs. Implementing policy coherence is widely taken to require a strategic vision that makes this a whole of government approach, requiring governance mechanisms that address policy interactions across sectors and tools to anticipate and assess overseas and long-term impacts.³⁴

As noted above, PCSD is a relatively new term, making the establishment of a definition an important task for the WSD Bill. In relation to the Welsh Act, Oxfam Cymru explained that:

“Goal 7 [Globally Responsible Wales] was specifically added to the well-being goals during the development of the Well-being of Future Generations Act to signal that a sustainable Wales cannot exist in isolation and that Wales should play its part in making the world a better place.”

The Welsh Centre for International Affairs frames positive international impact as being at the strongest end of the scale from “stopping things that harm people and planet”, at one end, to “do no harm” in the middle, and “making a positive contribution” at the other end.³⁵

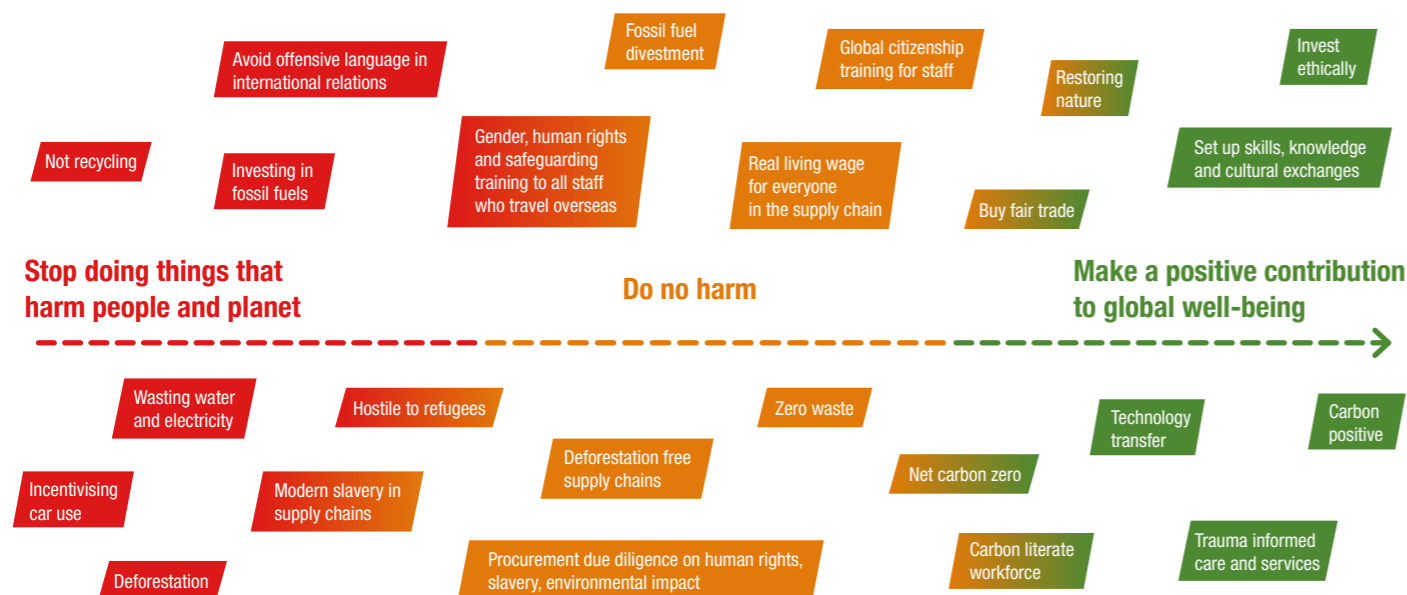


Figure 3: What is global responsibility?

³³ WRI Working Paper – Universality, Integration and Policy Coherence for Sustainable Development, p7

³⁴ See, e.g. OECD Recommendation on Policy Coherence for Sustainable Development

³⁵ <https://www.wcia.org.uk/globally-responsible-wales-resources/>

However, Wales’ international PCSD goal is not well-understood or well-implemented.³⁶ To reduce the risk of PCSD being a weak plank of the WSD Bill, below, we make recommendations on how it should be defined. Chapter 4 then outlines further recommendations to support practical actions for PCSD.

Recommendation 4:

In order to ensure that domestic and international policy coherence for sustainable development is understood and implemented as a core principle of SD, as listed under the definition of SD, 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
 - maximizes 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.

Adapted from Welsh Centre for International Affairs

³⁶ <https://www.futuregenerations.wales/a-globally-responsible-wales/>



Strengthening Scotland's national outcomes for sustainable development

Under the Community Empowerment Act 2015, Scottish Ministers are legally required to set national outcomes. The existence of national outcomes, and the wider National Performance Framework (NPF) in which the current Scottish Government has placed them, is a positive attempt to embed richer measures of national progress in Scotland. However, further work is required to enhance the status of national outcomes within decision-making and to ensure their ambition is matched by delivery.

Through this Bill, Scotland can build on this relatively strong existing approach, whilst strengthening the legal requirements on national outcomes. The Bill also presents a critical opportunity to consider whether the legislative underpinning of national outcomes should remain within the Community Empowerment Act, or be embedded within the new Wellbeing and Sustainable Development Bill. This paper does not state a view on this, but the latter option could offer the chance to revisit the principles upon which national outcomes are formulated.

However, regardless of the location of the legislative requirements, it is clear there is a need to improve the process by which the formulation of national outcomes supports sustainable development, wellbeing and PCSD. This would include: making amendments to deepen public participation in the identification of national outcomes and boosting the level of parliamentary scrutiny within this critical process. Beyond this, changes are needed to strengthen the mechanisms which support delivery of national outcomes, as well as setting out how progress will be assessed.

Below, Recommendations 5 and 6 focus on Part 1 of the Community Empowerment (Scotland) Act 2015. They recommend it should be amended so that *all* of Scotland's desired national outcomes directly support SD, including domestic and international PCSD. As noted above, an alternative approach would be to revoke Part 1 of the Community Empowerment Act entirely, and set out duties on national outcomes in the WSD Bill itself.

The amendments, below, 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 SD 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”³⁷
- 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”.³⁸ 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.

³⁷ Scottish Parliament, Official Report (24 May 2018): <https://archive2021.parliament.scot/parliamentarybusiness/report.aspx?r=11553&i=104800>

³⁸ Community Empowerment (Scotland) Act 2015: <https://www.legislation.gov.uk/asp/2015/6/section/3/enacted>

Recommendation 5:

Part 1 of the Community Empowerment (Scotland) Act 2015 should be amended (or lifted entirely, amended and inserted into this new WSD Bill legislation), to ensure that national outcomes support sustainable development including domestic and international PCSD.

5.1: Amend sections 1(4) to include reference to SD, in addition to socio-economic inequalities, or include a separate clause to that effect immediately before it. For example:

‘1(4) In determining the national outcomes, the Scottish Ministers must establish how they will support sustainable development, including domestic and international policy coherence, and the reduction of inequalities of outcome which result from socio-economic disadvantage.’



To provide for transparency and accountability about **how** national outcomes will be delivered, we recommend that an implementation framework be developed and published, so that delivery plans and progress can be better monitored and scrutinised on a continuous basis. The National Performance Framework serves this purpose for the current administration, but future administrations are likely to want to develop their own and embedding this within legislation would serve to compel this.

Recommendation 7:

A requirement for Scottish Ministers to develop and maintain a framework for the implementation/delivery of national outcomes should be added to Part 1 of the Community Empowerment Act or alternatively, included as part of the WSD Bill. This framework should detail policy, spending and other measures, setting out how progress will be assessed.



Recommendation 6:

National outcomes should be determined following meaningful, open and transparent public engagement, with this then followed by both comprehensive reporting on progress and enhanced public and parliamentary scrutiny. Part 1 of the Community Empowerment (Scotland) Act 2015 should be amended (or lifted entirely, amended and inserted into this new WSD Bill legislation), as follows:

6.1: Amend s.1(5) and 2(4) to enhance the public participation requirements for the determination of national outcomes; in particular, the clause should be amended to require ‘participation’ rather than ‘consultation’.

6.2: Amend s.1(8) to increase the period of the parliamentary consultation on new draft national outcomes, which the Scottish Government agreed to look at doing prior to the next review;³⁹ similarly, amend s.2(10) on revised draft national outcomes.

6.3: Amend 3(1) and (2) by inserting after ‘achieved’ words to the effect of ‘and are internally consistent and have supported domestic and international policy coherence for sustainable development’, e.g.:

3(1) The Scottish Ministers must prepare and publish reports about the extent to which the national outcomes have been achieved and are internally consistent and have supported domestic and international policy coherence for sustainable development.

3(2) The Scottish Ministers must include in reports published under subsection (1), information about any change in the extent to which the national outcomes have been achieved and are internally consistent and have supported domestic and international policy coherence for sustainable development since the publication of the previous report under that subsection.

6.4: Amend 3(3) so that reports must be prepared and published at least biennially, e.g.:

3(3) Reports must be prepared and published by the Scottish Ministers biennially.





Ensuring existing sustainable development duties work properly

As noted in Chapter 2, there is already a plethora of Scottish Acts which contain provisions for sustainable development (SD). Many of them confer duties on various individuals or groups of public bodies. In this chapter, we offer recommendations on how a key piece of legislation – the Climate Change Act 2009 – could be amended to support public bodies in taking action towards SD.

The public bodies' sustainable development duty

Perhaps the most important of the numerous SD duties found in Scottish Acts is in the Climate Change (Scotland) Act 2009, which requires all Scottish public bodies to, in exercising their functions, act in the way they consider most sustainable⁴⁰. However, possibly due to the wording of the Act, and certainly because of a lack of parallel capacity building, support and accountability requirements, this duty does not appear to be well-implemented, as outlined below.

Section 44 of the Climate Change Act places three duties on Scottish public bodies, requiring them to carry out their functions in such a way as to support:

- mitigation of climate change by reducing greenhouse gas emissions
- adaptation to the impacts of a changing climate
- sustainable development.

The Act reads:

Duties of public bodies relating to climate change:

(1) A public body must, in exercising its functions, act –

- (a) in the way best calculated to contribute to the delivery of the targets set in or under Part 1 of this Act;
- (b) in the way best calculated to help deliver any programme laid before the Scottish Parliament under section 53;
- (c) in a way that it considers is most sustainable.

The third duty, that relates directly to sustainable development, is sometimes misinterpreted due to its section title, as pertaining only to climate change. As one stakeholder told us, “all of the focus on SD is put into climate change and not elsewhere.”

Until relatively recently, Scottish public policy has focused on climate change. Publication of the first iteration of the National Performance Framework (NPF) in 2007 included a ‘sustainability’ purpose target, to ‘reduce emissions’. Due in part to the Scottish Government’s emphasis on emissions’ reduction and a transition to a low carbon economy being an opportunity for economic growth, the SD narrative in public policy was almost replaced by one on climate change alone.⁴¹

A significant amount of support and capacity building was provided by the Government for public sector climate change mitigation, including funding the Sustainable Scotland Network (SSN)⁴² to shift its focus from SD as whole to supporting public bodies’ compliance with the climate change duties. This duty has been well-implemented and monitored.⁴³ This prioritisation of a single issue, albeit a major and urgent threat, risks informing decisions that can lead to policy conflicts, or have unwanted or perverse consequences in other areas.

On adaptation to climate change, the Scottish Government funds Sniffer, the environmental research and practice organisation, to deliver the Adaptation Scotland programme which offers guidance and support to help organisations, businesses and communities prepare for, and build resilience to, the impacts of climate change. However, as formal support mechanisms for adaptation were instituted later than for mitigation, progress has lagged.

⁴⁰ <https://www.legislation.gov.uk/asp/2009/12/section/44>

⁴¹ e.g. Scottish Government 2007: The Government Economic Strategy, Edinburgh.

⁴² <https://sustainablescotlandnetwork.org/about-us>

⁴³ See, for example, [Climate Change Plan: monitoring reports - 2021 compendium](#)

Nevertheless, learning from the implementation of the adaptation duty suggests that there are effective ways in which to support public bodies to implement new duties.

The Adaptation Capability Framework recognises there is no one-size-fits-all approach to climate adaptation, with organisations at different stages of ‘maturity’.⁴⁴ The same approach would be suitable for supporting and analysing how organisations approach SD more broadly (e.g. ranging from project level assessments of impacts to mainstreaming within strategic decision-making).

Public bodies are required by statutory order to report on their compliance with the mitigation and adaptation duties, but – in stark contrast – reporting on the sustainable development duty is not mandatory, and there is no current support mechanism in place. The Sustainable Scotland Network’s (SSN) latest guidance for reporting does not address SD beyond climate.⁴⁵ This has led to the third duty in the Climate Change (Scotland) Act 2009 – the one focused on sustainable development – being poorly understood, and not well-implemented.

The amendments, recommended below, aim to ensure that this third duty is properly understood to be about SD, and to make clear that reporting on it is mandatory. This would give it at least the same weight as the climate change mitigation and adaptation duties.

Recommendation 8:

The WSD Bill should strengthen the existing duty in the Climate Change (Scotland) Act 2009 for public bodies to mainstream sustainable development. This could be done, for example, by the following:

8.1 Amend the title of s.44 by adding ‘and sustainable development’ at the end, so that it reads:

‘44 Duties of public bodies relating to climate change and sustainable development’

8.2 Amend 44(1)(c) by adding at the end ‘and most likely to support Scottish and international policy coherence for sustainable development’, so that it reads:

‘(c) in a way that it considers is most sustainable and most likely to support Scottish and international policy coherence for sustainable development’.

8.3 Amend 44(3) by inserting ‘and sustainable development’ at the end; (4) by inserting ‘and sustainable development’ between ‘climate change’ and ‘duties’; similarly amend 44(5), (6)(a) and (b), and (9), so that they read:

‘(3) The Scottish Ministers may, if they consider it appropriate to do so, by order, make further provision relating to the imposition on relevant public bodies of duties relating to climate change and sustainable development.

(4) The duties imposed by subsection (1) and any duty imposed by virtue of an order under subsection (3) are referred to in this Act as “climate change and sustainable development duties”.

(5) In this Part, a public body which has climate change and sustainable development duties under subsection (1) or by virtue of subsection (3) is a “relevant public body”.

(6) An order under subsection (3) may in particular —

(a) impose climate change and sustainable development duties on —

(i) all public bodies;

(ii) public bodies of a particular description;



(iii) individual public bodies;

(b) impose different climate change and sustainable development duties on different public bodies or descriptions of public body;

...

(9) The Scottish Ministers must co-operate with a relevant public body to help that body comply with its climate change and sustainable development duties.’

8.4 If it is possible for new primary legislation to amend a Ministerial Order, we recommend the amendment of The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015 s.3(1) by inserting ‘and sustainable development’ between ‘climate change’ and ‘duties’, so that it reads:

‘3.—(1) For each year, a listed body must prepare a report on compliance with its climate change and sustainable development duties.’

Prioritising sustainable development duties

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 2009 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 PCSD. Certain ‘exemptions’ may be necessary for extreme circumstances, however, in theory, this amendment could apply in all cases.

Recommendation 9:

It may be possible to further amend section 44 of the Climate Change (Scotland) Act 2009 by adding a new clause which serves to resolve existing conflicts in public bodies’ statutory duties. For example, a clause after 44(1), stating that ‘where the implementation of any other statutory duty appears to conflict with 44(1)(c), a transparent resolution must be sought with regard to policy coherence for sustainable development as defined in the Wellbeing and Sustainable Development (Scotland) Act 202X’.



Challenges for a public duty-based approach

During the research conducted for this report, stakeholders raised a concern over the number of duties that public bodies are already subject to, in addition to those that might come with new legislation in related areas, such as the Good Food Nation Bill⁴⁶ as well as this WSD Bill. This poses the question of whether bodies risk being overburdened with duties and related reporting obligations.

There was also discussion of how public bodies can 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’.⁴⁷ However, it may be worth considering how a bespoke Scottish toolkit will combine support to implement specific aspects of duties

⁴⁴ For example, organisations at the “mature” stage are tasked with different actions - [Adaptation Scotland: The Framework](#)

⁴⁵ [CC Reporting Master Guidance 2021](#)

⁴⁶ [Good Food Nation Scotland Bill – Bills \(proposed laws\) – Scottish Parliament](#)

⁴⁷ [Adaptation Scotland - Framework](#)

with the broader implementation of wellbeing and PCSD. There are already toolkits on the latter available.⁴⁸

Key learnings from the implementation of other duties on public bodies in Scotland reinforce some of the limitations of an approach based on the imposition of duties. For example, compliance with the reporting component of the Biodiversity Duty has been found to be mixed, at best, with a lack of communication from government, a lack of guidance, and limited understanding of how the duty applies to a public body, cited as factors.⁴⁹ In the case of the Public Sector Equality Duty,⁵⁰ public bodies are placed under a duty to collect equality-specific data and then generate reports. A 2018 review highlighted the pressure that this places on already under-resourced organisations or staff without appropriate training.⁵¹ An ensuing concern is that the current approach might be counterproductive by diverting resources towards reporting and away from more concrete action.

Given the complexity of implementing PCSD in practice, and the likelihood that public bodies will have to shift to new ways of working and thinking, a capability-maturity approach as used by Adaptation Scotland seems well suited to the WSD Bill in terms of providing public bodies with a step-by-step process of change.

Duty-bearers could be supported by new bodies, or existing bodies such as SSN, which might be well placed to take on these additional roles. The latter would be particularly useful in the context of creating more synergies across policy domains and lowering the burden on public bodies if the reporting can also be integrated with existing systems and reports.

⁴⁸ See, e.g. <https://www.oecd.org/governance/pcsd/toolkit/tools/>

⁴⁹ [Evaluation of the Compliance and Quality of Biodiversity Duty Reports 2015](#)

⁵⁰ [The Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#)

⁵¹ [Effectiveness of the PSED Specific Duties in Scotland | Equality and Human Rights Commission](#)

Supporting a transition to a wellbeing economy

An economy that drives sustainable development and wellbeing in Scotland and globally

In addition to setting out key definitions and strengthening existing provisions in Scottish legislation, a key role for the Bill should be to make some initial provisions for Scotland's transition to what has become known as a 'wellbeing economy'. The Scottish Government is already committed to transition to a wellbeing economy⁵² and is a partner in the Wellbeing Economy Governments' Initiative, which advocates that development in the 21st century should deliver human and ecological wellbeing.

What is wellbeing?

Wellbeing has two aspects – the capability to meet one's needs⁵³ – and life satisfaction. The first is perhaps more policy relevant as public policy can support capabilities, by seeking to ensure that the people it serves are capable of meeting their needs, for example, through equitable access to resources, good health, sufficient education, etc.

A wellbeing economy would need, therefore, to be focused on ensuring that everyone can, at a minimum, meet their basic human needs. However, critically, in order to protect the ability of future generations to also meet these, a wellbeing economy would need to deliver upon the needs of the current population in a way that does not threaten planetary boundaries, thereby jeopardizing the future wellbeing, and indeed survival, of future generations.

One useful model for a wellbeing economy is Raworth's doughnut model,⁵⁴ which depicts the planetary boundaries as an ecological ceiling for development, and societal needs as a floor (Figure 4). Using the doughnut model,⁵⁵ research has shown that currently, no national economy is able to meet the needs of its people without putting unsustainable pressure on the planet.⁵⁶ Scotland's performance under this model was described as both "environmentally unsafe and socially unjust" in 2014, based on exceeding multiple planetary boundaries and the persistence of inequalities.⁵⁷ There is no evidence that this position has fundamentally changed since this analysis.

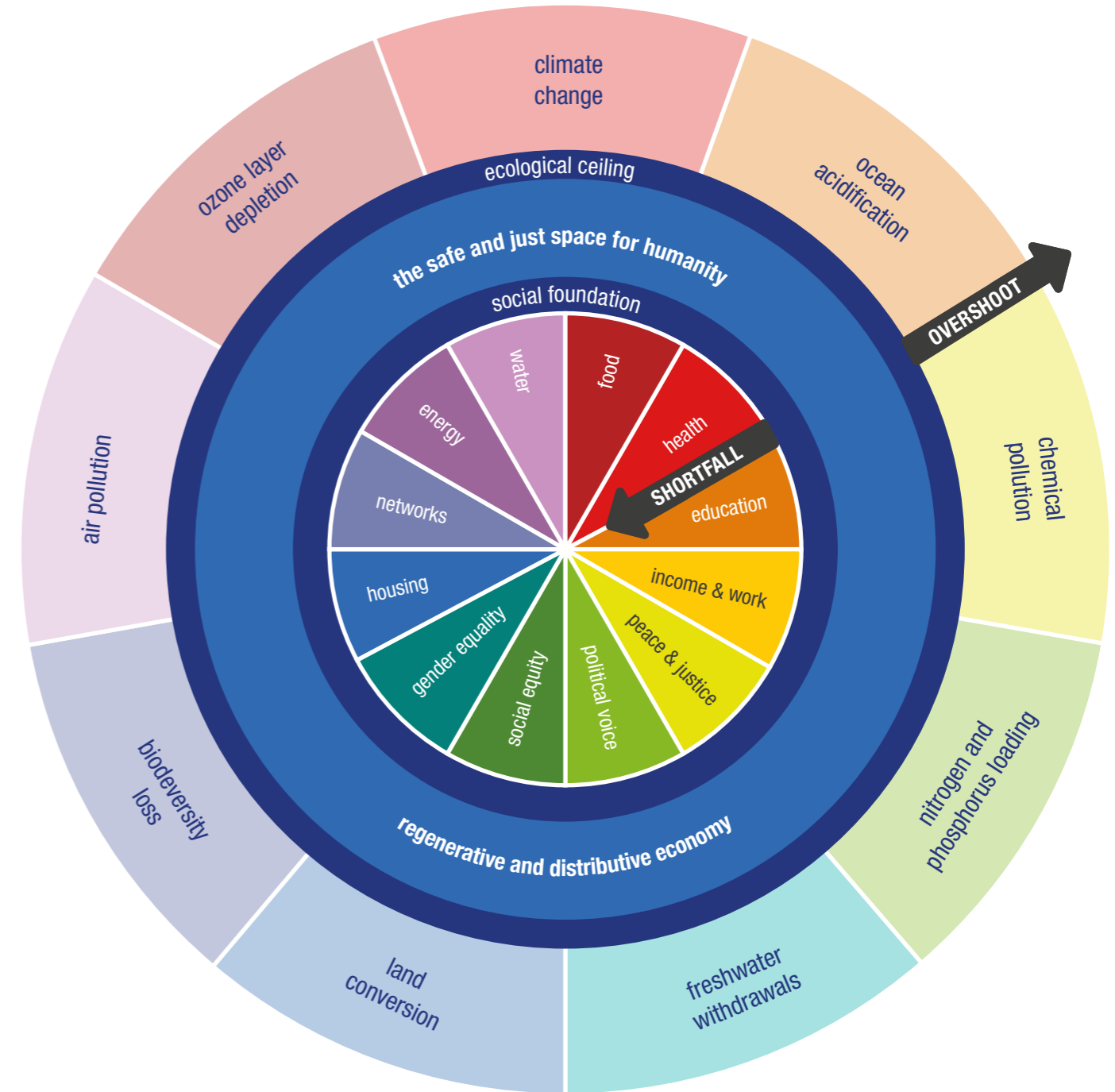


Figure 4: The doughnut model of a wellbeing economy⁵⁸

Current economic models assume that economic growth, as commonly measured by Gross Domestic Product (GDP), is synonymous with increasing wellbeing and prosperity, when in reality, they have led to "growing inequality, an escalating climate crisis, and the depletion of natural and social capital".⁵⁹ GDP measures what is exchanged on 'the market'. It counts all products as positive, regardless of whether or not:

- they support wellbeing (such as nutritious foods, or safe drinking water);
- are required to mitigate detrimental impacts of economic activity, such as pollution clean-ups, or healthcare for pollution-related disease;
- actively detract from wellbeing, such as armaments or cigarettes.

⁵² The Scottish Government 2022: A Fairer, Greener Scotland: Programme for Government 2021-22, Edinburgh.

⁵³ e.g. Sen, A. 1993: Capability and wellbeing, in Nussbaum, M. & Sen, A. (eds.) 1993: The Quality of Life, Oxford University Press, Oxford. ; Jackson, T. & Marks, N. 1999: Consumption, Sustainable Welfare and Human Needs – with reference to UK expenditure patterns between 1954 and 1994, Ecological Economics 28: 421-444.

⁵⁴ Raworth, K. 2017: Exploring Doughnut Economics: <https://www.kateraworth.com/doughnut/>

⁵⁵ This model has been adopted in Wales, particularly by Natural Resources Wales as a way to assess progress towards the wellbeing goals - see SoNaRR2020: Action for people and the planet

⁵⁶ See <https://goodlife.leeds.ac.uk/> for a comparison of how countries are transgressing planetary boundaries and failing to meet a social minimum.

⁵⁷ Oxfam, 2014: The Scottish Doughnut

⁵⁸ Raworth, K. 2017: Exploring Doughnut Economics: <https://www.kateraworth.com/doughnut/> (available under CC-BY-SA-4.0 licence)

⁵⁹ Costanza, R. et al. 2018: Towards a sustainable wellbeing economy

A wellbeing economy is an “alternative vision for the economic system, in which finance serves and incentivises the economy, and the economy serves society – and the environment – as part of its intrinsic purpose.”⁶⁰

Understanding an economy as a means to social ends, rather than an end in itself, is key to the idea of a wellbeing economy. This requires a transition to an economy that is people-centred and does not overstep planetary boundaries. It emphasises sustainable consumption and production, has a limited place for growth that is constrained by sustainability, and its success and progress is measured on a wide set of metrics of human and ecological wellbeing.

Thus, a wellbeing economy would be one whose overarching policy aim would be to meet its members’ fundamental human needs, rather than the perpetual increase of production and consumption. This is where the Scottish Government’s purpose, as placed at the heart of its National Performance Framework, falls down – its aim is “to focus on creating a more successful country with opportunities for all of Scotland to flourish”, but this is not only predicated on “increased wellbeing” but also “economic growth”. Although this is now phrased as “sustainable and inclusive economic growth”, arguably, Scottish Government economic strategies since 2007 have continued, too often, to show a preference for conventional economic growth, rather than economic growth that can be borne by the ecosphere and by society.⁶¹ Perhaps more encouragingly, the Scottish Government says that its recent National Strategy for Economic Transformation: “Sets out the priorities for Scotland’s economy as well as the actions needed to maximise the opportunities of the next decade to achieve our vision of a wellbeing economy.”⁶²

Given that the term ‘wellbeing economy’ features in the current Programme for Government, the Bill presents an important opportunity to define and give substance to this idea – so that it means, explicitly, growth that does not transgress planetary boundaries, and that supports equitable distribution of benefits and disbenefits.

According to WEAll, the ‘non-negotiables’ of a wellbeing economy are:

- 1. Dignity:** Everyone has enough to live in comfort, safety and happiness;
- 2. Nature:** A restored and safe natural world for all life;
- 3. Connection:** A sense of belonging and institutions that serve the common good;
- 4. Fairness:** Justice in all its dimensions at the heart of economic systems, and the gap between the richest and poorest greatly reduced;
- 5. Participation:** Citizens are actively engaged in their communities and locally rooted economies.

Importantly, we believe there can be “no national wellbeing without global wellbeing”⁶³ and therefore, wellbeing in Scotland must not be increased at the expense of people elsewhere in the world or future generations. The Wellbeing of Future Generations (Wales) Act 2015 enshrines a set of wellbeing goals, one of which recognises Wales’ impact on the rest of the world. It states that actions to improve the wellbeing of Wales should take account of how to make positive contributions to global wellbeing.

National initiatives focusing on wellbeing in Iceland and New Zealand have created national wellbeing indicator frameworks that could provide standards against which to hold governments accountable, and we recommend, below (Recommendation 11), a similar exercise in Scotland.

In Iceland, the Prime Minister, Katrín Jakobsdóttir, set up a working group to develop measurements for wellbeing which resulted in a framework of 39 indicators aiming to capture elements of wellbeing, and aligned to the UN SDGs. A parliamentary motion approving the use of these indicators was passed in April 2020 but its incorporation into policymaking and accountability structures is currently unclear.⁶⁴

New Zealand has adopted a Living Standards Framework⁶⁵ that will enable the government to “strengthen the quality of its policy advice through the more consistent use of wellbeing data and evidence.”⁶⁶ However, the power of this guidance has yet to be established, and translation into meaningful impacts on policymaking and accountability are currently unclear.

⁶⁰ WEAll. 2019. What is a wellbeing economy? <https://weall.org/wp-content/uploads/2019/12/A-WE-Is-WEAll-Ideas-Little-Summaries-of-Big-Issues-4-Dec-2019.pdf>

⁶¹ Ross, A. 2015: The future Scotland wants – is it really all about Sustainable Economic Growth? *Edinburgh Law Review*, 19(1): 66-100.

⁶² [Scotland's National Strategy for Economic Transformation](#)

⁶³ Ndivile Mokoena, Gender CC Southern Africa, Alliance Annual Conference

⁶⁴ <https://www.socialenterprise.net/2020/05/iceland-39-well-being-indicators/>

⁶⁵ [New Zealand Government - The Living Standards Framework \(LSF\) 2021](#)

⁶⁶ [New Zealand Government – culture, wellbeing and the living-standards framework: a perspective \(June 2019\)](#)

Again, we see a clear role for this Bill in creating the conditions for such metrics to influence policymaking in Scotland. Furthermore, the public sector interacts with the private sector in a number of ways, including to procure goods and services, and to regulate and enforce. As private businesses can have a significant impact on sustainable development, negative or positive, it is important to ensure that when public bodies interact with them, they do so in a way that is transparent, and in keeping with their sustainable development duties. This could help shift business models and practices onto a more sustainable pathway. Based on the above, our recommendations for how this Bill should move to implement the transition to a wellbeing economy are as follows.

Recommendation 10:

The Bill should 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 meet their needs without having a detrimental impact on the ability of people in other countries, and future generations to meet theirs.

10.1: 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.

10.2: 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.

Recommendation 11:

The Bill should contain an indicator, an index, or a dashboard of indicators that will provide a transparent and continuously updated assessment of Scotland’s contribution to human and ecological wellbeing. This should become the key driver of public policy and, in so doing, support the displacement of economic growth as the dominant measure of national progress.

Recommendation 12:

The WSD Bill should ensure that public bodies are required to ensure their engagement with the private sector, including their procurement procedure, is fully consistent with the statutory duties and overarching ambitions of the Bill. This would include provisions to allow for public bodies’ interactions with the private sector to be better scrutinised.



Establishing an accountability and support structure

The duties and powers of a Wellbeing and Sustainable Development Commissioner

The final element of the Bill to be considered should be the accountability and support regime it establishes.

The requirement to report, if built into the Bill, can itself be a standard to be assessed through accountability. It can also, by presenting data transparently, enable accountability. This enabling role, though, is dependent on the quality of reporting, e.g. the use of the right indicators and metrics, and being oriented to relevant targets and also the quality of scrutiny – for example, where there exists a body with the mandate and capacity to review and judge the adequacy of reporting.

Reporting requirements are a common component of legislation, internationally and from other relevant Scottish law. Though reporting has drawbacks – for example, our research on public duties, above, identifies that reporting might become a focus at the expense of action, or that reporting necessarily creates additional work on stretched institutions – its presence in the framework of the Bill is assumed and discussed briefly, above.

Importantly, we believe it should be supported by a wrap-around culture that positions and promotes reporting, and the scrutiny flowing from it, as facilitating continuous and progressive improvement. In addition to indicators and reporting, therefore, the Bill also needs to develop a system of learning, support and constructive accountability around SD in Scotland, as part of its effort to establish and nurture this idea throughout Scottish public life. As addressed in Chapter 4, public duties face serious challenges to their effectiveness. This gives rise to Recommendation 13:

Recommendation 13:

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.

This general recommendation informs our more specific recommendation on the powers and role of a Wellbeing and Sustainable Development Commissioner, below, which takes as its starting point the existing commitment to establish a Future Generations Commission in Scotland.⁶⁷

This initiative clearly overlaps with the concerns of the WSD Bill, and the approach taken here is to integrate the two. It makes no sense to try to establish parallel bodies and, to our knowledge, no country in the world does so. Instead, we recommend that the Future Generations Commission should have a wider title to reflect a (potentially) broader set of concerns.

A concern for future generations is one way of framing SD and wellbeing issues, but the proposed framing of a ‘Wellbeing and Sustainable Development Commissioner’ is a deliberate attempt to popularise this term and solidify its meaning, while tying this commissioner directly to the WSD Bill. ‘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.

Recommendation 14, then, aims to set out the powers of this Wellbeing and Sustainable Development Commissioner.

Recommendation 14:

The WSD Bill should create, and place in statute, a new ‘Wellbeing and Sustainable Development 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.

⁶⁷ See *A Fairer, Greener Scotland: Programme for Government 2021-22*, p106

14.1: This Wellbeing and Sustainable Development Commissioner should be given statutory duties and powers, and allocated sufficient resource to:

- 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.

This recommendation is informed by learning from the stronger international models with a commission/commissioner and their roles. In part, this also reflects learning from Wales about weaknesses in the current Welsh regime, as outlined earlier in this paper. Stakeholders interviewed felt that the Future Generations Commissioner role in Wales is too weak and is under-resourced, with fewer ‘teeth’ than other commissioners in Wales. More generally, it was also felt in Wales that effective scrutiny mechanisms should have been built into the legislation to ensure that there was scope to review impact and progress, including a requirement for post-legislative scrutiny, and this, too, could be a task for a Wellbeing and Sustainable Development Commissioner in Scotland.

Recommendation 14 reflects the way in which more formal and independent processes confer more meaningful accountability, but also, the relative absence of other formal components of an accountability regime for SD in Scotland (as discussed, below, in the context of parliamentary and audit scrutiny). In general, independent, well-resourced bodies do a better job of ensuring compliance and so make the legislation more effective. The use of *independent* processes and institutions, with this reflected in statutory requirements, ensures accountability is to the right people, against the right standard, and backed by appropriate sanction.

Importantly, charging a statutory body with accountability powers in relation to SD creates a permanent institution with responsibility for safeguarding and promoting this idea, and inherently raises the profile of sustainable development, helping to establish SD as a cross-cutting part of Scottish public life.

However, a cautionary note is appropriate. There have been examples where extensive accountability powers, in newly established SD scrutiny mechanisms, led to those sustainable development institutions being abolished or reformatted, notably in Israel and Hungary. Israel’s Future Generations Commission, which had the power to scrutinise and delay legislation, was dissolved in 2006 with its cost and the extent of its authority cited as reasons.⁶⁸ Prior to 2011, Hungary’s ombudsman had a constitutional mandate to halt environmentally damaging legislation. In the current, reworked system, the ombudsman can offer an opinion on legislation and still possesses some investigative powers.⁶⁹ Thus, an important consideration is to ensure that any monitoring body for a sustainable development duty can maintain and grow support within Scottish politics and society. The emphasis on ‘building capacity’, supporting duty-bearers and developing a body of learning around best practice in realising and reporting on SD objectives, in part, speaks to this need to develop the legitimacy of this body, and of sustainable development thinking, over time.

The final component of the powers and duties of the proposed commissioner – the development of public participation – is also vital. In other contexts, civil society organisations and citizens have important roles in accountability institutions. In some jurisdictions – including in Canada, Malta, Finland and Germany – civil society has formal representation on advisory SD institutions.⁷⁰ The Finnish model also comprises a formal element of citizen engagement through a citizens’ panel that gauges Finland’s progress on sustainable development, though it does not directly rate government policies or strategies.⁷¹

Climate assemblies have been undertaken in Scotland and elsewhere that might provide a model for other types

⁶⁸ [Knesset Research and Information Centre - Official Bodies that Deal With the Needs of Future Generations and Sustainable Development- Comparative Review](#)

⁶⁹ [About the office - AJBH-EN - AJBH](#)

⁷⁰ See, e.g. [German Council for Sustainable Development](#); Canada’s; Malta’s [SDN](#); Finland’s [Commission](#)

⁷¹ [Finland’s Citizens’ Panel](#)

of citizen and stakeholder assemblies.⁷² These could have specific roles in the context of wellbeing and sustainable development – for example, in improving the NPF. Even informally, civil society performs an essential role in scrutiny of sustainable development. Civil society space, transparency, consistent routes of engagement with government and data availability, are all important enablers of this role. Aside from integration into the mandate of the commissioner, the creation and maintenance of pathways for citizen engagement would itself be a candidate for a duty on other public bodies in the Bill. Malta’s legislation, for example, establishes a multi-stakeholder sustainable development network and assigns a specific duty to the prime minister to engage with stakeholders and raise national awareness.⁷³

The place of two other bodies – Audit Scotland and the Scottish Parliament as a whole – should also be highlighted briefly.

A Role for Audit Scotland

Audit Scotland (AS) currently undertakes scrutiny of how public bodies are performing against their duties. Audit Scotland’s remit is limited to accountability of the Scottish Government against commitments they have made. However, the connection to existing public bodies’ duties in the Climate Change (Scotland) 2009 Act⁷⁴ means that a meaningful basis for audit exists, and Audit Scotland could, within its mandate, audit the Government against these duties. A more developed duty around sustainable development arising from this Bill – for example, providing greater specificity on what was expected in terms of both future – and global-oriented PCSD, might enable a more substantial role for Audit Scotland. If it were possible for Audit Scotland to undertake such scrutiny, its own compliance with the Climate Change Act requires it to fulfil its audit functions in a way that supports SD, and for it to report on its exercise of these functions as required.

In other contexts, national audit institutions are involved in scrutiny arrangements. In Wales, the Auditor General does have an audit role in the Future Generations Act, and has undertaken an evaluation,⁷⁵ though in consultation on the Act they expressed reservations about being asked to evaluate in these terms. In Belgium, the Court of Audit is empowered to review progress on the UN Sustainable Development Goals which have become a cornerstone of Belgium’s national strategy.⁷⁶

A Role for the Scottish Parliament

In other national settings, a parliament is an important site of accountability for sustainability. This occurs partly through parliamentary structures – for example, Finland’s Committee for the Future, or the UK’s Environmental Audit Committee and All Party Group on the SDGs⁷⁷ – and partly through mainstreaming sustainable development thinking in the work of the Parliament. There are procedural limits to what this Bill could achieve in establishing new parliamentary mechanisms for accountability around sustainable development, but the Bill should at least require that reports would be laid before the Scottish Parliament for scrutiny.

In other national contexts, there are parliamentary committees with mandates to scrutinise such reports. Parliamentary committees can be powerful actors. The Finnish Committee for the Future’s functions include the preparation of the parliament’s response to the government’s ‘Government Future Report’ and regular SDG reporting. The committee has the independence to decide its own agenda.⁷⁸ Similarly, Canada’s approach to sustainable development scrutiny again uses a parliamentary committee as a key component, with scrutiny of government plans and policies referred to this committee.⁷⁹

Whilst the WSD Bill cannot bring into being such a body, increasing Scottish parliamentary scrutiny is a central plank of effective accountability and consideration should be given as to how such a committee could be brought into being or encouraged through or alongside the Bill.

⁷² Scotland’s [Climate Assembly](#)

⁷³ See section 9 of Malta’s [Sustainable Development Act \(2012\)](#)

⁷⁴ [Climate Change\(Scotland\) Act 2009](#) part 4

⁷⁵ [Implementing the Well-being of Future Generations Act – Welsh Government](#)

⁷⁶ See [Details | Court of Audit](#)

⁷⁷ [Committee for the Future; Environmental Audit Committee - UK Parliament; APPG on the UN Global Goals for Sustainable Development](#)

⁷⁸ [Committee for the Future](#)

⁷⁹ [Environment and Sustainable Development Committee - House of Commons of Canada](#)



Scotland's International
Development Alliance

About Scotland's International Development Alliance

Scotland's International Development Alliance (the Alliance) is the membership body in Scotland for everyone committed to creating a fairer world, free from poverty, injustice and environmental threats. Our membership brings together a diverse range of over 200 international NGOs, companies, universities, charitable trusts, public sector bodies and individuals that operate in over 100 countries.

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