

**National Assembly for Wales**  
Environment and Sustainability Committee

**Well-being of Future Generations  
(Wales) Bill**  
Stage 1 Committee Report

November 2014



Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales

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## Environment and Sustainability Committee

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the maintenance, development and planning of Wales's natural environment and energy resources.

### Current Committee membership



**Alun Ffred Jones (Chair)**  
Plaid Cymru  
Arfon



**Mick Antoniw**  
Welsh Labour  
Pontypridd



**Jeff Cuthbert**  
Welsh Labour  
Caerphilly



**Russell George**  
Welsh Conservatives  
Montgomeryshire



**Llyr Gruffydd**  
Plaid Cymru  
North Wales



**Julie Morgan**  
Welsh Labour  
Cardiff North



**William Powell**  
Welsh Liberal Democrats  
Mid and West Wales



**Jenny Rathbone**  
Welsh Labour  
Cardiff Central



**Antoinette Sandbach**  
Welsh Conservatives  
North Wales



**Joyce Watson**  
Welsh Labour  
Mid and West Wales

# Contents

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<b>Recommendations .....</b>	<b>5</b>
<b>Introduction.....</b>	<b>10</b>
Terms of scrutiny .....	10
The Committee’s approach .....	11
<b>1. General principles and the need for legislation.....</b>	<b>12</b>
The Assembly’s legislative competence to make the Bill .....	12
General principles and approach to legislation .....	12
Issues omitted or under-represented .....	15
Strength of the duties and language in the Bill .....	16
Guidance and regulations .....	19
Consistency with other legislation .....	20
<b>2. Part 1 – Introduction and Key Concepts.....</b>	<b>22</b>
Defining SD and the SD duty.....	22
Defining well-being .....	25
Defining public bodies .....	26
<b>3. Part 2 – Improving Well-being .....</b>	<b>28</b>
Well-being goals .....	28
Well-being objectives and the duty on public bodies .....	34
Measuring performance towards achieving the goals .....	37
<b>4. Part 3 – The Future Generations Commissioner for Wales .....</b>	<b>42</b>
Appointment and governance.....	42
Sections 16 to 26 – The duties and functions of the Commissioner and the Advisory Panel.....	44
The role of the Auditor General for Wales .....	49
<b>5. Part 4 – Public Services Boards.....</b>	<b>53</b>
Sections 27 to 33 – Establishment, participation and scrutiny.....	53
Sections 34 to 45 – Improving local well-being.....	56
Schedule 4 – Consequential amendments and repeals.....	58

<b>6. The Regulatory Impact Assessment and Financial Provisions .....</b>	<b>64</b>
<b>Annexe 1 - List of written evidence .....</b>	<b>69</b>
<b>Annexe 2 - Witnesses .....</b>	<b>72</b>

## Recommendations

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**Recommendation 1.** We recommend to the Assembly that it agree the general principles of the Bill but only on the condition that the Welsh Government has made clear in advance of the Stage 1 debate that it is prepared to accept and address recommendations 3, 9, 13, 14, 16, 19, 21, 23, 25, 27, 28, 29.

We believe that, should the Assembly not agree the general principles, the Welsh Government should acknowledge the support for the intentions of the Bill and bring forward a revised Bill within the current Assembly term which would take on board the concerns raised during this process. (Page 14)

**Recommendation 2.** We recommend that the Welsh Government takes steps to ensure that the impact of this legislation is understood and addressed across all of the policy areas the Bill encompasses. (Page 16)

**Recommendation 3.** We recommend that the Welsh Government reviews the provisions of the Bill, particularly those set out in sections 2 and 3 and the duty in section 6(1) with a view to providing a stronger, clearer statement of intent and sense of direction for public bodies. (Page 18)

**Recommendation 4.** We recommend that the Welsh Government amend the principles set out in section 8(2) to ensure that public bodies are clear that citizen engagement and co-production should be a key element of the approach to applying the sustainable development principle and objective setting. (Page 18)

**Recommendation 5.** We recommend that, before Stage 2, the Welsh Government publish a document clearly setting out the matters to be addressed in guidance prepared under the Bill and the approach to be taken in relation to these issues to allow Members to better understand the impact of the Bill. (Page 19)

**Recommendation 6.** We recommend that the Welsh Government prepare a detailed document prior to Stage 2 of this Bill clearly setting out the relationship between this Bill, the Planning (Wales) Bill and the proposed Environment Bill including:

- an integrated timetable of planning and reporting duties contained in each of the Bills;
- a diagram setting out clearly how the proposed plans contained in each of the Bills relate to each other;
- the roles of the bodies required to be involved in the development of the plans under each of the Bills . (Page 21)

**Recommendation 7.** We recommend that the Welsh Government ensure that guidance clearly sets out how the duties under this Bill interact with duties under other relevant legislation, particularly the Local Government (Wales) Measure 2009. (Page 21)

**Recommendation 8.** We recommend that the Welsh Government, in addressing Recommendation 25 of this report, considers the Auditor General for Wales' audit and assessment duty under the Local Government (Wales) Measure 2009 with a view to reducing bureaucracy and improving compatibility with the requirements of this Bill. In line with Recommendation 25, any proposed change to the Auditor General's duties should only be brought forward with the consent of both the Assembly's Finance Committee and Public Accounts Committee. This is to ensure that the broader implications of changing the Auditor General's duties can be considered and to satisfy the Assembly that any changes do not constrain the Auditor General's freedom to exercise his or her functions. (Page 21)

**Recommendation 9.** We recommend that the Welsh Government amends the sustainable development principle to reflect the broader issues included in both the One Wales One Planet and Brundtland definitions of sustainable development, particularly climate change, using only our fair share of the earth's resources, environmental limits and the international impact of what we do in Wales. (Page 25)

**Recommendation 10.** We recommend that the Welsh Government clarifies the meaning of well-being on the face of the Bill. (Page 26)

**Recommendation 11.** We recommend that the Welsh Government reviews the criteria used in selecting public bodies to ensure that there are no omissions. Any amendments to the list should be made during Stage 2 proceedings. (Page 27)



**Recommendation 12.** We recommend that Welsh Government guidance to public bodies sets out how they will be expected to fulfil their obligations under the Bill when engaging other organisations to deliver services on their behalf and make this clear in the document published in response to recommendation 5. (Page 27)

**Recommendation 13.** We recommend that the Welsh Government clarifies and strengthens the wording of the goals and their descriptors to reflect the many comments made by stakeholders and the findings of the National Conversation interim report. In particular, we believe that the goals should specifically address key issues such as environmental limits, restoration of biodiversity, international impacts and social justice, and that the language used in the goals should be clear and unambiguous. (Page 34)

**Recommendation 14.** We recommend that the procedure for changing the well-being goals should be amended so that any changes can only be made through an enhanced procedure, including the direct involvement of the appropriate scrutiny committee of the Assembly and which requires the Welsh Ministers to have regard to the views of that committee. (Page 34)

**Recommendation 15.** We recommend that guidance issued to public bodies should make clear how they should address conflict between goals and make this clear in the document published in response to recommendation 5. (Page 34)

**Recommendation 16.** We recommend that the Welsh Government brings forward amendments to make it clear that the provisions of the Bill apply to all functions of public bodies, and to ensure that the scope of the Commissioner's role extends to all of these functions. (Page 37)

**Recommendation 17.** We recommend that the Welsh Government sets out clearly and concisely exactly what public bodies should achieve as a result of embedding the well-being goals into their decision making processes. We believe that the Minister should set clear, specific outcomes below the level of goals against which public bodies and the Commissioner can assess progress at public body level. (Page 41)

**Recommendation 18.** We recommend that the Welsh Government ensures:

- that ONS are involved in the development of indicators;
- that the UK Statistics Authority provide quality assurance of the indicators and approach to measurement; and

- that the indicators used have National Statistics status in every case where this is possible. (Page 41)

**Recommendation 19.** We recommend that there should be cross-party and stakeholder involvement in the process for appointing the Future Generations Commissioner, possibly in the form of an appointment panel making recommendations to the appointing body. (Page 44)

**Recommendation 20.** We recommend that the Future Generations Commissioner should be appointed for a period of 7 years with no reappointment. (Page 44)

**Recommendation 21.** We recommend that the powers of the Future Generations Commissioner be strengthened to include power to initiate inquiries and to conduct investigations. The Commissioner's power to require provision of information should be strengthened to encompass information relevant to all of the Commissioner's functions, not only to the making of recommendations. (Page 48)

**Recommendation 22.** We recommend that the Welsh Government provide guidance to all public bodies to clearly define the types of circumstances in which they can avoid a recommendation of the Future Generations Commissioner. (Page 48)

**Recommendation 23.** We recommend that should public bodies decide not to follow a recommendation made by the Future Generations Commissioner, that body should be expressly required to justify how and why it arrived at that decision as part of its response prepared under section 20(4). (Page 48)

**Recommendation 24.** We recommend that the advisory panel to the Commissioner should comprise a broader range of interests and stakeholders than is currently included and that the current provision requiring the Welsh Ministers to consult the Commissioner before appointing further members of the panel should be strengthened to allow the Commissioner to identify areas where advice is required. (Page 48)

**Recommendation 25.** We recommend that the Welsh Government resolves the issues around the duty on the Auditor General as soon as possible and make the outcome known to us prior to the Stage 1 debate on the general principles of this Bill. Should it be necessary to consequently amend the provision in the Bill, the Minister should bring forward an amendment to do so during Stage 2 procedures. Any proposed change to the Auditor General's duties should only be brought forward with the consent of both the

Assembly's Finance Committee and the Public Accounts Committee. This is to ensure that the broader implications of placing additional duties on the Auditor General can be considered and to satisfy the Assembly that any additional duties do not constrain the Auditor General's freedom to exercise his or her functions. (Page 51)

**Recommendation 26.** We recommend that the Welsh Government reviews the approach to the membership and accountability of, and participation in, PSBs to ensure inclusion of a wide range of sectors and interests with differing expertise which represent the needs of the communities they serve. The invitation to participate in PSBs should not be restricted to public bodies. (Page 56)

**Recommendation 27.** We recommend that the Welsh Government reviews the scrutiny arrangements for PSBs taking account of the concerns raised. (Page 56)

**Recommendation 28.** We recommend that the Welsh Government reviews the approach to assessment of local well-being, particularly the provisions of sections 35 and 36, to ensure an appropriate balance between economic, social and environmental issues is achieved in their preparation. (Page 58)

**Recommendation 29.** We recommend that the Welsh Government reviews schedule 4 and the approach to local well-being planning, particularly in relation to the 'health in all policies' approach and the needs of carers, children and young people, to ensure that a sufficiently robust approach to these issues is achieved in the planning process. (Page 62)

**Recommendation 30.** We recommend that the Welsh Government considers whether express reference to the 'health in all policies' approach and the UN Convention on the Rights of the Child should be included in the Bill and make clear how the issues raised by stakeholders will be addressed in delivery of the Bill. (Page 63)

**Recommendation 31.** We recommend that the Welsh Government takes note of the audit being undertaken by the Auditor General for Wales on the cost and resources estimates included in the Regulatory Impact Assessment and update the RIA based on its findings. (Page 68)

**Recommendation 32.** We recommend that the Welsh Government review the estimated costs for the office of the Commissioner included in the EM and ensure that adequate resources are available to deliver this important function. (Page 68)

## Introduction

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1. On 7 July 2014, Jeff Cuthbert AM, the then Minister for Communities and Tackling Poverty introduced the Well-being of Future Generations (Wales) Bill (“the Bill”) and accompanying Explanatory Memorandum and made a statement on the Bill in Plenary on 8 July 2014. Following a change in ministerial portfolios in September 2014, the First Minister authorised Carl Sargeant AM, Minister for Natural Resources (“the Minister”), to be the new Member in charge of the Bill, from 11 September 2014.

2. At its meeting on 17 June 2014, the Assembly’s Business Committee agreed to refer the Bill to the Environment and Sustainability Committee (“the Committee”) for consideration of the general principles (Stage 1), in accordance with Standing Order 26.9.

### Terms of scrutiny

3. The Committee agreed the following framework within which to scrutinise the general principles of the Bill:

To consider—

- i. How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector.
- ii. The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the following areas –
  - The “common aim” and “sustainable development principle” established in the Bill and the “public bodies” specified;
  - The approach to improving well-being, including setting of well-being goals, establishment of objectives by public bodies and the duties imposed on public bodies;
  - The approach to measuring progress towards achieving well-being goals and reporting on progress;
  - The establishment of a Future Generations Commissioner for Wales, the Commissioner’s role, powers, responsibility, governance and accountability; and
  - The establishment of statutory Public Services Boards, assessments of local Well-being and development / implementation of local well-being plans.
- iii. How effectively the Bill addresses Welsh international obligations in relation to sustainable development.

- iv. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.
- v. Whether there are any unintended consequences arising from the Bill.
- vi. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum and Regulatory Impact Assessment; which estimates the costs and benefits of implementation of the Bill).
- vii. The appropriateness of the powers in the Bill for the Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for the Welsh Ministers to make subordinate legislation).

### **The Committee's approach**

- 4. The Committee issued a consultation and invited key stakeholders to submit written evidence to inform the Committee's work. A list of the consultation responses is attached at Annex 1.
- 5. The Committee took oral evidence from a number of witnesses. The schedule of oral evidence sessions is attached at Annex 2.
- 6. The following report represents the conclusions the Committee has reached and its recommendations based on the evidence received during the course of its work.
- 7. Due to his previous role as Minister for Communities and Tackling Poverty, Jeff Cuthbert AM did not take part in the Committee's discussions on the formulation of this report. His views are therefore not included in the views of the Committee expressed in this report.
- 8. The Committee would like to thank all those who have contributed to its work.

# **1. General principles and the need for legislation**

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## **The Assembly's legislative competence to make the Bill**

9. The Explanatory Memorandum (EM) states:

“The National Assembly for Wales has the legislative competence to make provision the provisions in the Future Generations (Wales) Bill [*sic*] pursuant to Part 4 of the Government of Wales Act 2006 (‘GOWA 2006’).”

10. The Presiding Officer issued a statement on 7 July 2014, which stated that, in her opinion, the Bill would be within the legislative competence of the Assembly.

11. Since the introduction of the Bill, we have become aware of the Welsh Government's wish to extend the Assembly's competence to allow it to amend section 79 of the Government of Wales Act 2006. We understand, that if the power to do so is granted, it will table amendments to this Bill.

## **General principles and approach to legislation**

12. The stated policy intent of the Bill is to put sustainable development (SD) at the heart of government and public bodies, and to make a difference to the lives of people in Wales in terms of reducing poverty levels, improving health, equality, safety, community cohesion, prosperity, culture, heritage and sustainable resource use. The EM states that the Bill will:

- strengthen existing governance systems by providing a clear focus on what public authorities are seeking to achieve through a suite of statutory national well-being goals, and evaluated and measured against national indicators;
- embed sustainable development in specified public authorities by requiring them to set well-being objectives that contribute to the achievement of the national well-being goals;
- support the change and promote the interests of Future Generations by establishing a Future Generations Commissioner for Wales; and
- reform integrated community planning by putting it on a statutory basis and establishing Public Services Boards.

13. On 5 November, the Minister laid the Government of Wales Act 2006 (Amendment) Order 2015 to confer legislative competence upon the National Assembly for Wales to amend section 79 of that Act (sustainable

development). The accompanying Explanatory Memorandum stated that the Welsh Government would hope to bring forward such an amendment to section 79 during the passage of this Bill.

14. We were very disappointed that this Order was laid at such a late stage of our consideration of the general principles, especially as the Minister had not given any indication of his intention to do so. The potential to amend section 79 of the Government of Wales Act is an extremely significant development, and we are very concerned at the lack of opportunity afforded to us to take evidence from stakeholders on this within the timescale of our stage 1 inquiry.

### ***Stakeholder views***

15. The policy intent of the Bill was received positively by respondents to the call for written evidence, with strong support for legislating to make SD the “central organising principle” of Welsh Government and devolved public bodies in Wales. The majority of respondents believed that the Bill has the potential to strengthen long-term planning for communities and the environment in Wales. However, weaknesses were identified in the structure and content of the legislation by the majority of respondents, with many raising concerns that the legislation needs significant amendment to deliver its intent.

16. Support for the intentions of the Bill was echoed by those who gave oral evidence to the Committee, although concerns around weaknesses in the Bill’s structure and content were again raised. Witnesses told us that the Bill should clarify that SD should be the central organising principle for public bodies in all that they do. Many told us that this was not explicit enough in the Bill.

17. The majority of respondents commented on the complexity of the Bill’s structure and felt this could be a barrier to effective implementation. Several highlighted the Bill’s apparent focus on governance and process, rather than decision-making and delivery. The cross-cutting nature of the Bill has resulted in references to, and effects on, a wide range of existing legislation, and a variety of existing partnerships, structures and planning regimes. This gave rise to concern that the Bill would duplicate or dilute existing work and structures, particularly in relation to the planning of local services.

18. Evidence from the Welsh Local Government Association (WLGA) referred to the difficulties in legislating for SD:

“Sustainable development is an all-embracing concept which relates fundamentally to the way we think about and do things we are already planning or doing. As subject matter for legislation this is quite unusual and challenging. Most legislation involves the introduction of a discrete set of actions or prohibitions.”

### *The Committee’s view*

19. There was unanimous support among Members of the Committee for the policy intent of the Bill and we believe the Welsh Government is to be commended for bringing forward legislation in this area. However, we agree with the views expressed by the majority of those who gave evidence that significant improvements are needed in order for the Bill to have any meaningful impact.

20. All Members feel that many improvements are required to the Bill, and while there is some variation on the approach required, we are largely in agreement on the improvements needed. A significant number of Members have serious misgivings about the Bill in its current form. They believe that the number of amendments required to make the Bill workable are so substantial that the general principles should not be agreed by the Assembly and that the Welsh Government should bring forward a revised Bill. This view is not shared by all Members. A significant number of others believe that improvements could be made to the Bill during the amending stages which would enable it to deliver its intended objectives. Consequently, these Members believe that the Assembly should agree to the general principles.

21. We welcome the policy intention of the Bill, and while we disagree with regard to our recommendation to the Assembly, we believe that the Bill can be effective if significant amendment is made.

**Recommendation 1: We recommend to the Assembly that it agree the general principles of the Bill but only on the condition that the Welsh Government has made clear in advance of the Stage 1 debate that it is prepared to accept and address recommendations 3, 9, 13, 14, 16, 19, 21, 23, 25, 27, 28, 29.**

**We believe that, should the Assembly not agree the general principles, the Welsh Government should acknowledge the support for the intentions of the Bill and bring forward a revised Bill within the current Assembly term which would take on board the concerns raised during this process.**



## **Issues omitted or under-represented**

22. International impact, the need to live within environmental limits and use only a fair share of the earth's resources and climate change were key issues cited by stakeholders as being omitted or under-represented in the Bill. Peter Davies, the Commissioner for Sustainable Futures, told us that the strength of the international element in the Bill was not sufficient:

“I think that that [the international element] is one of the areas where you would want to see some tightening up and a recognition of international impacts. I think if you look at what we are facing for future generations, the role of climate change is probably the most significant factor affecting future generations that we have some capacity to influence now. We have argued strongly in this process that the climate change dimension is one of the specifics that need to be highlighted more within the legislation. The international dimension is one that certainly needs to be fully recognised, more so than it is currently.”<sup>1</sup>

23. In his evidence to the Committee, the Minister was clear in his belief that environmental issues were adequately considered in the Bill:

“This is not an environmental Bill. We will have an environmental Bill. This is a sustainable development and well-being Bill and I do not accept that the environment is not considered in this Bill at all.”<sup>2</sup>

24. Others raised similar issues in terms of social policy, particularly the rights of children and young people, equality for women, Welsh language, carer needs, and ‘health in all policies’. Proposals to address these issues broadly focused on amendments to one or more of the common aim, SD principle, and the goals, or an alternative definition of SD.

### ***The Committee's view***

25. We note the following comment in the EM:

“The Bill will give effect to the Welsh Government's commitment to ‘putting sustainable development at the heart of government; creating a resilient and sustainable economy that lives within its

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<sup>1</sup> RoP [para 328], 25 September 2014, Environment and Sustainability Committee

<sup>2</sup> RoP [para 121], 25 September 2014, Environment and Sustainability Committee

environmental limits and only uses our fair share of the earth's resources to sustain our lifestyles.'”

We do not believe that the Bill currently achieves this objective.

26. We note the Minister's comment that this is not an environment Bill, and we recognise the importance of each of the three pillars of SD. However, given that environmental issues are absolutely intrinsic to the concept of SD we believe that it is essential that issues such as the international impact of what we do in Wales, environmental limits, the need to use only a fair share of the earth's resources and climate change are addressed in the Bill. We note comments from the Minister that competence limits the Assembly's ability to legislate on international issues. However, given that this Bill establishes duties on Welsh public bodies, it is not clear to us why this might prevent the Assembly from requiring them to consider the international impact of their decisions, for example in procurement practices.

27. We also note the range of wider socio-economic issues raised by stakeholders. The broad scope of this Bill means that many issues from a range of policy areas are engaged. Consequently, we believe there is a need to ensure that the impact of this legislation in particular areas is understood and addressed appropriately.

**Recommendation 2: We recommend that the Welsh Government takes steps to ensure that the impact of this legislation is understood and addressed across all of the policy areas the Bill encompasses.**

### **Strength of the duties and language in the Bill**

28. Several stakeholders expressed disappointment at the weakness of the duties placed on public bodies by the Bill, and raised particular concerns around the strength of the language used. The UK Environmental Law Association stated that the consequence of using terms such as “seeking to” and “pursue” could be “that that burden may be too easy to discharge.”<sup>3</sup> This view was shared by Cynnal Cymru.

29. Concern was also raised around the strength of language used in the well-being goals, and in relation to the Commissioner's functions. In the latter case, stakeholders commented that the language seemed more appropriate to a convening, rather than a stronger compliance role.

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<sup>3</sup> RoP [para 422], 25 September 2014, Environment and Sustainability Committee

30. In his letter of 8 October, the Minister said that the use of such phrases reflected the fact that one organisation could not achieve well-being singlehandedly.<sup>4</sup> During oral evidence, he denied that the language used was not strong enough.

### ***The Committee's view***

31. We acknowledge the point made by the Minister that the language used needs to reflect the extent to which an individual organisation can achieve the objectives of the Bill. However, if this language cannot be strengthened, we question why this legislation is preferable to issuing guidance, for example. In our view a key purpose of legislation is to achieve outcomes and, where appropriate, establish clear and effective duties.

32. We believe that this has not been achieved in the Bill as drafted.

33. In general we suggest that there are particular issues with the strength of language used in:

- Section 2 – Aim of public bodies to improve well-being (the ‘common aim’): we believe that an “aim” to “improve” the economic, social and environmental well-being of Wales is limiting;
- Section 3 – Sustainable development principle: we believe that a provision drafted as a “principle” could have a stronger objective than “seeking to ensure”; and
- Section 6 – Well-being goals: we believe that “seeking to achieve” goals is unambitious and we note the suggestion from the UK Environmental Law Association that “foster” may be more appropriate.

34. In addition, we believe that the approach taken in the Bill of establishing duties by reference to some or all of these three provisions taken together tends to compound the limiting nature of the language used and to obscure the ultimate outcome sought.

35. Specific issues related to the language and strength of duties in relation to the Future Generations Commissioner and broader issues around the content and wording of goals and descriptors themselves are discussed further below.

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<sup>4</sup> E&S(4)-25-14 paper 5, *Letter from the Minister for Natural Resources*, 8 October 2014

**Recommendation 3: We recommend that the Welsh Government reviews the provisions of the Bill, particularly those set out in sections 2 and 3 and the duty in section 6(1) with a view to providing a stronger, clearer statement of intent and sense of direction for public bodies.**

***Consultation, citizen engagement and co-production***

36. The Bill makes many references to “consultation”. The principles to be taken into account in applying the SD principle and setting / meeting objectives (section 8(2)) include the importance of “involving those with an interest in the objectives, by seeking their views and taking them into account” and we understand that the Minister considers this to refer to co-production. Section 42 also specifies a range of groups and individuals which Public Services Boards (PSBs) must consult before publishing local well-being plans. While the Bill refers to “consultation”, the EM states that current guidance on “citizen-centred governance” will be consolidated into guidance under the Bill.

37. The Commissioner for Sustainable Futures supported greater clarity on co-production and citizen engagement in the Bill. He suggested that the use of the word “consultation” is an interpretation / drafting issue, but that he knows from working with the Welsh Government that the principle of citizen engagement is “fully understood” and seen to be key to the Bill. A significant number of other stakeholders, particularly the WCVA, identified a need for a clearer statement of intent that citizen engagement and co-production are integral to the Bill.

38. We recognise and support the intention behind the requirement in section 8(2)(c) and also the difficulties involved in legislating to require public bodies to apply a citizen-centred governance approach. However, we believe that there is scope to reflect more clearly in section 8(2)(c) the priority given to engagement and co-production in the EM. The views of local citizens will be essential if public bodies are to set objectives that would truly meet the needs of their communities.

**Recommendation 4: We recommend that the Welsh Government amend the principles set out in section 8(2) to ensure that public bodies are clear that citizen engagement and co-production should be a key element of the approach to applying the sustainable development principle and objective setting.**

## Guidance and regulations

39. The Bill makes provision for guidance in four sections (s15, s20(2), s39(7) and s50). Section 15 makes provision for mandatory Welsh Government guidance on part 2 (improving well-being), while section 50 provides for discretionary guidance on part 4 (PSBs).

40. The Minister made clear that some provisions, particularly goals and duties, were purposefully broad to permit flexibility. He anticipated that guidance would be key to clarifying, for example, the interpretation of goals. The Minister said that the guidance would allow public bodies to “fully understand what their duties are and what is expected within the Bill”,<sup>5</sup> but that issuing such instructions in the form of statutory guidance allowed greater flexibility to those bodies as opposed to putting it on the face of the Bill.<sup>6</sup>

41. The Bill makes provision for subordinate legislation primarily in the form of regulations.

42. We recognise that this is framework legislation and that there will be a role for both guidance and subordinate legislation. However, as the Minister has made clear, the Bill is drafted flexibly:

“We are not saying in the Bill what direction...[public bodies]...must take. This is about having the flexibility to make changes to their local needs based on local determination.”<sup>7</sup>

The Minister emphasised the role of the Commissioner in ensuring that an appropriate approach is taken and also the role of guidance. We find it extremely difficult to scrutinise legislation which is broadly drafted, with significant detail left to guidance, since both we and stakeholders are unable to understand its impact. We believe that in circumstances where guidance is integral to understanding the practical effect of a Bill, the Welsh Government should publish draft guidance, or at the very least publish an outline of the approach to, and content of, that guidance when introducing the Bill.

**Recommendation 5: We recommend that, before Stage 2, the Welsh Government publish a document clearly setting out the matters to be addressed in guidance prepared under the Bill and the approach to be**

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<sup>5</sup> RoP [para 35], 25 September 2014, Environment and Sustainability Committee

<sup>6</sup> RoP [para 37], 25 September 2014, Environment and Sustainability Committee

<sup>7</sup> RoP [para 20], 25 September 2014, Environment and Sustainability Committee

**taken in relation to these issues to allow Members to better understand the impact of the Bill.**

### **Consistency with other legislation**

43. The broad range of areas covered by this Bill led to questions being raised by a number of stakeholders around its consistency with other pieces of legislation.

44. The interaction of this Bill with the Planning (Wales) Bill and the proposed Environment Bill was questioned by several witnesses. The Welsh Government indicated that Natural Resources Wales would have a key role in relation to both. We asked the Minister to set out the relationship between the Bills. However, while we found his reply helpful it did not comprise a thorough summary of the inter-relationships between the different pieces of proposed legislation.

45. Questions were also raised on the consistency between this Bill and the Social Services and Well-being (Wales) Act 2014.

46. Two separate but related issues emerged in relation to the Local Government (Wales) Measure 2009. Section 3 requires councils, National Park Authorities and Fire and Rescue Authorities to consider sustainability as one of seven priorities in developing “improvement objectives”, while this Bill seeks to make SD their central organising principle. The Auditor General for Wales suggested that this may cause confusion and increase cost for the public bodies affected. Additionally, section 19 of that Measure requires the Auditor General to report on each of these three bodies. He suggested that reform could reduce bureaucracy.

47. The Minister stated that the 2009 Measure was being reviewed as part of proposals to reform local government.

**Recommendation 6: We recommend that the Welsh Government prepare a detailed document prior to Stage 2 of this Bill clearly setting out the relationship between this Bill, the Planning (Wales) Bill and the proposed Environment Bill including:**

- an integrated timetable of planning and reporting duties contained in each of the Bills;**
- a diagram setting out clearly how the proposed plans contained in each of the Bills relate to each other; and**

- the roles of the bodies required to be involved in the development of the plans under each of the Bills .

**Recommendation 7: We recommend that the Welsh Government ensure that guidance clearly sets out how the duties under this Bill interact with duties under other relevant legislation, particularly the Local Government (Wales) Measure 2009.**

**Recommendation 8: We recommend that the Welsh Government, in addressing Recommendation 25 of this report, considers the Auditor General for Wales' audit and assessment duty under the Local Government (Wales) Measure 2009 with a view to reducing bureaucracy and improving compatibility with the requirements of this Bill. In line with Recommendation 25, any proposed change to the Auditor General's duties should only be brought forward with the consent of both the Assembly's Finance Committee and Public Accounts Committee. This is to ensure that the broader implications of changing the Auditor General's duties can be considered and to satisfy the Assembly that any changes do not constrain the Auditor General's freedom to exercise his or her functions.**

## 2. Part 1 – Introduction and Key Concepts

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48. Part 1 gives an overview of the main provisions and sets out the purpose and key concepts of the Bill, including:

- **Purpose of the Bill:** to ensure that the governance arrangements of public bodies for improving the well-being of Wales take the needs of future generations into account;
- **Aim of public bodies to improve well-being:** the aim of public bodies is to improve the economic, social and environmental well-being of Wales in accordance with the sustainable development principle; and
- **Sustainable Development Principle:** seeking to ensure the needs of the present are met without compromising the ability of future generations to meet their own needs.

49. Part 1 also lists the organisations to be defined as public bodies for the purposes of the Bill.

### **Defining SD and the SD duty**

50. The EM states:

“The Bill sets out a sustainable development duty structured around the achievement of the well-being goals, through the setting and meeting of well-being objectives and the application of the sustainable development principle.”

51. Although not mentioned in this description of the SD duty, the common aim of public bodies to improve well-being also appears to be a part of the SD duty.

52. Taking the Bill as a whole it seems that while section 3 (SD principle) is central to the definition of SD, the definition and duty are set out and applied through multiple interlocking sections.

### ***Stakeholder views***

53. Stakeholders frequently described this approach to a SD definition and duty as complex and unclear. In their written evidence, Friends of the Earth Cymru commented:

“The Bill does not contain a definition of sustainable development as such, and has separated various elements into the common aim,



sustainable development principle, well-being goals and elements that public bodies should take into account.”<sup>8</sup>

54. During oral evidence, Haf Elgar, representing Friends of the Earth Cymru added to these comments, saying that a single definition of SD was required to ensure a consistent approach across other pieces of legislation:

“I think that it is important, to see a definition of sustainable development in the Bill, partly because it is a structure for general legislation in Wales. It is important, to have consistency across legislation in Wales, that we have a single definition of sustainable development.”<sup>9</sup>

55. The omission of a clear and effective definition of SD was also raised as a concern by Cynnal Cymru in its written evidence:

“...we have a concern that there is no clear definition of sustainable development on the front of the Bill. It is evident that people, in general, are themselves not certain regarding what this is but also, if we do not specify what we are aiming towards, how will we know if and when we get there? An additional point is that, if the Sustainable Development definition is not firmly stated, it would be much easier for this to be watered down under a different legislature.”<sup>10</sup>

56. Dr Victoria Jenkins, representing the UK Environmental Law Association, told the Committee that the SD principle in the Bill did not link “to the need to ensure that there are natural resources available for the development of future generations,” she said:

“we need to ensure that development is within our environmental limits, so that, in future, there are natural resources for future generations. We did not feel that the definition that is in the Bill at present is sufficiently clear on that.”<sup>11</sup>

57. A number of respondents suggested that the definition contained in ‘One Wales, One Planet’, the Welsh Government’s current SD scheme, is preferable. This definition reads:

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<sup>8</sup> Environment and Sustainability Committee: *Consultation Response WFG 61, Well-being of Future Generations (Wales) Bill*: Submission from Friends of the Earth Cymru

<sup>9</sup> RoP [para 229], 1 October 2014, Environment and Sustainability Committee

<sup>10</sup> Environment and Sustainability Committee: *Consultation Response WFG 16, Well-being of Future Generations (Wales) Bill*: Submission from Cynnal Cymru

<sup>11</sup> RoP [para 420], 25 September 2014, Environment and Sustainability Committee

“In Wales, sustainable development means enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations:

- In ways which promote social justice and equality of opportunity; and
- In ways which enhance the natural and cultural environment and respect its limits - using only our fair share of the earth’s resources and sustaining our cultural legacy.

Sustainable development is the process by which we reach the goal of sustainability.”<sup>12</sup>

58. The Minister told us that the definition contained in ‘One Wales, One Planet’ would still stand, and that the definition applied in section 3 of the Bill is the internationally recognised definition contained in the 1987 report of the Brundtland Commission, *Our Common Future*.

### ***The Committee’s view***

59. We unanimously agree that the SD principle in the Bill should be substantially strengthened in order to provide a clear steer to all public bodies as how they should be considering it in respect of the decisions and actions they take. We have great sympathy with the view that the omission of key environmental principles has resulted in a much weaker description than that contained in ‘One Wales, One Planet’.

60. We note the Minister’s comment that the Brundtland definition is applied in the Bill. The definition in full reads:

“Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:

- The concept of needs, in particular the essential needs of the world’s poor, to which overriding priority should be given; and
- The idea of limitations imposed by the state of technology and social organisation on the environment’s ability to meet present and future needs.”<sup>13</sup>

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<sup>12</sup> One Wales: One Planet, *The Sustainable Development Scheme of the Welsh Assembly Government*, May 2009

In our view the Bill does not apply the Brundtland definition in full, and we note that key parts of the definition related to needs and international issues as well as environmental limits have been omitted. While we do not suggest that the approach taken to these wider issues in Brundtland should be adopted verbatim, we believe the definition applied in this Bill must reflect these issues.

**Recommendation 9: We recommend that the Welsh Government amends the sustainable development principle to reflect the broader issues included in both the One Wales One Planet and Brundtland definitions of sustainable development, particularly climate change, using only our fair share of the earth’s resources, environmental limits and the international impact of what we do in Wales.**

### **Defining well-being**

61. Witnesses suggested that the meaning of well-being was unclear, specifically how it related to the use of the term in other legislation such as the Social Services and Well-being (Wales) Act 2014. The Minister attempted to explain the difference in his letter, saying that whilst in this Bill the term referred to the “nation as a whole”, in the Social Services and Well-being Act 2014 the term referred to individuals.<sup>14</sup>

62. During oral evidence, the Minister told us:

“We have defined the issue around sustainable development and well-being. That is well understood in terms of how that is to be determined by public authorities.”<sup>15</sup>

The Minister also said that the Welsh Government would be developing indicators, which would build upon existing SD indicators to measure performance in improving well-being.

### ***The Committee’s view***

63. We note the Minister’s comment that well-being in this Bill refers to national well-being. However, we also note that the Bill refers to well-being in relation to the well-being of Wales; a Public Services Board (PSB) area; communities; and vulnerable / disadvantaged people. We note the comment from the Office for National Statistics that well-being is:

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<sup>13</sup> Our Common Future, *Report of the Brundtland Commission*, 1987

<sup>14</sup> E&S(4)-25-14 paper 5, *Letter from the Minister for Natural Resources*, 8 October 2014

<sup>15</sup> RoP [para 24], 25 September 2014, Environment and Sustainability Committee

“...often the adjective or prefix that denotes what well-being refers to - for example, national well-being, personal or individual wellbeing, physical well-being, etc. The Bill may need to clarify that well-being refers to national well-being (in this case, Wales) unless otherwise specified”.<sup>16</sup>

**Recommendation 10: We recommend that the Welsh Government clarifies the meaning of well-being on the face of the Bill.**

**Defining public bodies**

64. The EM contains a list of those public bodies subject to the Bill. In defining those bodies it states:

“The public authorities that are subject to the provisions of the Bill were identified following consideration of a set of criteria:

*Funding:* the authority is over 50% public funded;

*Impact on Well-being:* the authority undertakes functions or activities that impact on the economic, social and environmental well-being of Wales or their local area;

*Functions:* the authority has strategic functions;

*Auditable:* the authority is an ‘auditable public authority’ as defined in Schedule 7 of the GOWA 2006.”

***Stakeholder views***

65. Stakeholders suggested a range of additional bodies should be included on the list of those subject to the Bill. These included Estyn, the Auditor General for Wales, higher and further education institutions, registered social landlords and the Welsh Ambulance Service NHS Trust. Some expressed the view that omitting some bodies from the list of those subject to the Bill could lead to a two-tier approach to achieving SD.

***Evidence from the Minister***

66. In his letter of 8 October, the Minister explained the reasons as to why certain bodies were excluded from the list. He explained that higher and further education institutions, because they were not directly funded by the

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<sup>16</sup> Environment and Sustainability Committee: *Consultation Response WFG 17, Well-being of Future Generations (Wales) Bill*: Submission from the Office for National Statistics

public purse, and Registered Social Landlords, because of the varied public funding they receive, were excluded. He added that he would review whether the Welsh Ambulance Service NHS Trust should be included on the basis of the evidence received.

### ***The Committee's view***

67. We were generally comfortable with the approach of listing in the Bill those bodies subject to its provisions, although we do acknowledge the potential for omitting bodies from such a list. We recognise that the Welsh Government has applied criteria to the selection of public bodies, although we are not entirely clear as to why these specific criteria have been chosen. We believe that it will be important for the Welsh Government to provide guidance to public bodies as to how they should extend the impact of the Bill to other organisations in delivering their functions. In particular, we believe that the procurement practices of public bodies will be a key area where the Bill can have a wider impact.

**Recommendation 11: We recommend that the Welsh Government reviews the criteria used in selecting public bodies to ensure that there are no omissions. Any amendments to the list should be made during Stage 2 proceedings.**

**Recommendation 12: We recommend that Welsh Government guidance to public bodies sets out how they will be expected to fulfil their obligations under the Bill when engaging other organisations to deliver services on their behalf and make this clear in the document published in response to recommendation 5.**

### 3. Part 2 – Improving Well-being

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#### Well-being goals

68. Part 2 of the Bill sets the following national well-being goals and provides a description for each:

- **A prosperous Wales** - an innovative and productive, low carbon emission, economy that makes more efficient and proportionate use of resources; and which generates wealth and provides employment opportunities for a skilled and well-educated population;
- **A resilient Wales** - a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change;
- **A healthier Wales** - a society in which people’s physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood;
- **A more equal Wales** - a society that enables people to fulfil their potential no matter what their background or circumstances;
- **A Wales of cohesive communities** - attractive, viable, safe and well-connected communities;
- **A Wales of vibrant culture and thriving Welsh language** - a society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.

69. The Bill requires public bodies to pursue the “common aim” to improve the economic, social and environmental well-being of Wales, in accordance with the SD principle. This would be achieved through public bodies (including the Welsh Ministers) seeking to achieve the well-being goals by meeting the well-being objectives they set pursuant to the SD duty.

70. Progress in improving well-being at an all-Wales level would be measured and evaluated by reference to a suite of national indicators set by the Welsh Government, who would use these indicators to publish an “annual well-being report” on progress towards the achievement of the national well-being goals. The Welsh Government would be required to publish a “future trends report” within 12 months of the date of a general election. This should contain predictions of likely future trends in the economic, social and environmental well-being of Wales.

71. The Bill includes provision for the Welsh Ministers to amend the well-being goals through adding or removing a goal or amending the title or description of a goal. The EM states that such changes would be made by Regulations which would be approved through the affirmative procedure.

### ***Stakeholder views***

72. While the Auditor General for Wales suggested an approach based on principles would be more effective, most stakeholders agreed with the use of goals guided by principles. However, a number of concerns were raised. A common criticism from stakeholders was the omission of policy areas from the goals. We heard from a broad range of interest groups that particular areas should be included within the goals.

73. Many witnesses suggested that environmental limits, the international dimension of SD and climate change were not sufficiently represented within the goals. In his written evidence, the Commissioner for Sustainable Futures stated:

“There will need to be further amendment to the goals, for example strengthening the international dimension, which is particularly significant around the issue of environmental limits and planetary boundaries, which are important concepts but often difficult to translate meaningfully into practice.”

74. His paper also provided the view of the Climate Change Commission, of which he is Chair:

“We also believe that it is imperative that the structure of the Bill, in particular the goals, measures and principles, set the framework for tackling climate change across the public sector. Climate change should be included within the measures of progress in the Bill, extending this requirement to a duty on Public Service Boards to set targets in line with accepted global requirements.”<sup>17</sup>

75. The RSPB welcomed the goal of “a resilient Wales” but suggested that the need to restore the natural environment should be added to the descriptor for that goal. Peter Jones, representing the RSPB said:

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<sup>17</sup> Environment and Sustainability Committee: *Consultation Response WFG 60, Well-being of Future Generations (Wales) Bill*: Submission from the Commissioner for Sustainable Futures

“we are particularly concerned to ensure that the restoration and the enhancement of biodiversity in Wales is seen as a sustainable development priority.”<sup>18</sup>

76. Cymdeithas yr Iaith Gymraeg expressed support for a Bill “in which the Welsh language is central to the sustainable development agenda”. To strengthen the position of the Welsh language in the Bill it recommended that the sixth goal should be amended to read “a Wales in which people participate in our cultures, which belong to us all, namely where the Welsh language thrives in our communities.”<sup>19</sup>

77. Concern was also raised that the wording of the goals and descriptors is too vague. A great many specific issues were raised. Some of the observations of Professor Susan Baker from Cardiff University illustrated the kinds of issues raised by stakeholders in relation to the language used:

“They are aspirational, so, from that point of view, it is quite nice to see them there, but they are vague to the point of disappointment. They talk about “proportionate use of resources” to generate wealth. Wealth is not well-being, and with wealth, immediately, one thinks about distribution and impact of the generation or creation of wealth. So, the first goal begs questions about how is it you are talking about well-being if, in the fourth line, you are using the word “wealth” and what is the relationship between the two. It is not direct and it is not necessarily in all cases positive.

“The next one talks about a biodiverse environment that has functioning ecosystems, but functioning ecosystems can be at the cost of biodiversity. So, that can bring you immediately into conflict with the obligations that you have under the [Convention on Biological Diversity], the European Union biodiversity 2020 targets and the other biodiversity legislation with respect to the birds and habitats directive.”<sup>20</sup>

78. Other issues raised by stakeholders included the meaning of the “proportionate” in the descriptor for “a prosperous Wales”, and the fact that some goals are comparative (“a healthier Wales” and “a more equal Wales”) while others are not.

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<sup>18</sup> RoP [para 218], 1 October 2014, Environment and Sustainability Committee

<sup>19</sup> RoP [para 63], 9 October 2014, Environment and Sustainability Committee

<sup>20</sup> RoP [para 586 & 587], 25 September, Environment and Sustainability Committee



79. The EM states that “the well-being goals work together and each goal should not be seen as stand-alone” so that in setting and meeting objectives public bodies must recognise the “potential relationships across and between the well-being goals”. However, the potential for conflicts between the goals was raised with us by a number of stakeholders. Wales Environment Link referred to the potential conflict in its written evidence:

“If they do try to integrate they will face the perennial problem of apparent conflicts between goals and between short and long term consequences. If the Bill (and subsequent guidance) is not clear on how to resolve these issues then the current situation will prevail where short term provisions will win and the environment will be given insufficient weight.”<sup>21</sup>

80. Professor Calvin Jones from Cardiff Business School highlighted the potential for conflict within goals, he stated:

“If employment goes up in Wales, climate emissions go up in Wales. That is a fact.”<sup>22</sup>

81. Significant concerns were raised by stakeholders in relation to the Welsh Government’s ability to amend the well-being goals. Particular concerns were raised regarding the procedure for making the changes, with many expressing the view that the proposed arrangement would not allow sufficient scrutiny of the changes. The RSPB suggested that adopting a super affirmative procedure for approving changes to the goals would be an appropriate alternative. The written evidence from the RSPB said:

“any changes (amendment, addition or removal) to one or more of the six well-being goals should be conditional upon detailed Assembly scrutiny akin to that of primary legislative procedure to ensure democratic accountability.”<sup>23</sup>

There was support from the WLGA for this approach.

82. Stakeholders also raised concerns around the frequency of amending goals. In written evidence the WLGA said:

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<sup>21</sup> Environment and Sustainability Committee: *Consultation Response WFG 24, Well-being of Future Generations (Wales) Bill*: Submission from Wales Environment Link

<sup>22</sup> RoP [para 574], 25 September, Environment and Sustainability Committee

<sup>23</sup> Environment and Sustainability Committee: *Consultation Response WFG 21, Well-being of Future Generations (Wales) Bill*: Submission from RSPB Cymru

“Clarification is needed as to how often this could take place to ensure that this does not happen too often. Such changes would have significant implications for public bodies in reviewing their objectives and subsequent collaboration with other persons.”<sup>24</sup>

### ***Evidence from the Minister***

83. In response to questioning on the strengths of the well-being goals, the Minister said “I do not think that there are any weaknesses in them”<sup>25</sup> and “I think that the words that we have used are well-rounded.”<sup>26</sup> Whilst acknowledging that the interpretation of the goals was very wide-ranging, he said that it was important for bodies to have “the flexibility to make changes to their local needs based on local determination.”<sup>27</sup>

84. The Minister rebutted suggestions that there were significant omissions from the well-being goals:

“the goal headlines cover and encompass all the issues that the Member has questioned me about, including the environment. So, we do not by any means think that the environment is not in the Bill. It is prescribed as an equal partner across the whole principle of development as we move forward. Sustainable development is well defined, and it is something on which we think that we have struck a balance on here in the development of the Bill.”<sup>28</sup>

85. The Minister told us that whilst the Bill did not include specific provision to consider international impacts, he believed that the issue was addressed:

“by its very nature a better Wales, we believe, will lead to a better position for the broader international objectives as well. So, what we do here for a more prosperous and healthier Wales and for the wellbeing of our nation will have knock-on effects across our political boundaries across Europe and the globe.”<sup>29</sup>

86. The Minister was very clear that he was reluctant to make any amendments to either the goals themselves or their descriptors. He did

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<sup>24</sup> Environment and Sustainability Committee: *Consultation Response WFG 69, Well-being of Future Generations (Wales) Bill*: Submission from the WLGA

<sup>25</sup> RoP [para 14], 25 September, Environment and Sustainability Committee

<sup>26</sup> RoP [para 18], 25 September, Environment and Sustainability Committee

<sup>27</sup> RoP [para 20], 25 September, Environment and Sustainability Committee

<sup>28</sup> RoP [para 16], 23 October, Environment and Sustainability Committee

<sup>29</sup> RoP [para 21], 23 October, Environment and Sustainability Committee

agree to consider how concerns could be addressed without changing the wording of the goals.

### *The Committee's views*

87. We acknowledge the difficulties presented in reconciling the vast number of proposals from stakeholders on amendments to the goals, and we understand why the Minister is reticent about further amendment. However, we do believe that he should address the key concerns by strengthening and clarifying the goals.

88. We note that the interim report of the National Conversation on the Wales We Want was published at the same time the Bill was introduced. We believe the timing of publication was unfortunate since the purpose of this phase of the National Conversation was to consider the Welsh Government's draft goals for this Bill. However, we believe that the interim report is a useful document and that its content reflects many of the issues raised by stakeholders in our consideration of this Bill and discussed above. In particular, we draw attention to the following extract from the interim report which highlighted that stakeholders asked for:

“more specific references for environmental limits, climate change, biodiversity and wildlife, and energy to be included within the goals.”<sup>30</sup>

89. We agree with Professor Baker that the goals as drafted are vague. We believe that clarity in drafting of legislation is essential. While we acknowledge that guidance is often required to assist in the application of legislative provisions, we believe that the provisions themselves should be capable of clear interpretation without reference to guidance. We do not believe that this is true of the goals as drafted. We are concerned that the approach taken is not sufficiently rigorous to ensure that public bodies are required to effect genuine change.

90. The well-being goals are at the heart of this Bill and we have grave concerns about the provision for the Welsh Ministers to amend them without due scrutiny. We believe that any changes to the goals should only be made through an enhanced procedure, which would include the direct involvement of this Committee or successor committees.

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<sup>30</sup> An interim report from the pilot National Conversation on 'The Wales we Want,' July 2014

**Recommendation 13: We recommend that the Welsh Government clarifies and strengthens the wording of the goals and their descriptors to reflect the many comments made by stakeholders and the findings of the National Conversation interim report. In particular, we believe that the goals should specifically address key issues such as environmental limits, restoration of biodiversity, international impacts and social justice, and that the language used in the goals should be clear and unambiguous.**

**Recommendation 14: We recommend that the procedure for changing the well-being goals should be amended so that any changes can only be made through an enhanced procedure, including the direct involvement of the appropriate scrutiny committee of the Assembly and which requires the Welsh Ministers to have regard to the views of that committee.**

**Recommendation 15: We recommend that guidance issued to public bodies should make clear how they should address conflict between goals and make this clear in the document published in response to recommendation 5.**

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

91. Section 7 requires public bodies to set and publish well-being objectives along with a statement setting out why these will contribute to achievement of the well-being goals, the actions which public bodies will take and how these will achieve the objectives, and the time period.

92. Section 8 requires public bodies to “set well-being objectives under section 7(1) in accordance with the sustainable development principle” and “take all reasonable steps....to meet those objectives in accordance with the sustainable development principle”.

### ***Stakeholder views***

93. Stakeholders questioned whether public bodies would be required to take account of the Bill’s duties in all decisions if SD is to be their central organising principle. WWF observed: “At the moment, it specifically states that this is a governance Bill.”<sup>31</sup> Witnesses identified other areas, such as

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<sup>31</sup> 263 RoP [para 263], 1 October, Environment and Sustainability Committee

financial decisions and procurement, where the Bill could make a big difference.

94. While most stakeholders did not directly address the principles (section 8(2)), a number suggested that key principles were absent or under-represented. These included the precautionary principle, environmental limits, use of “sound science” and citizen engagement. WWF Cymru also suggested that “balancing” long- and short-term needs does not give sufficient regard to the importance of the long term.

### ***Evidence from the Minister***

95. In relation to the duty on public bodies, the Minister said:

“There will now be a statutory provision for most public bodies to consider sustainable development as their core policy of delivery in the way they operate.”<sup>32</sup>

He added that the difference this Bill would make is that public bodies would:

“have to demonstrate to the Commissioner and the public at large their consideration and determinations. They will have to evidence how sustainable development is being considered and applied to their policy development.”<sup>33</sup>

96. In the Minister’s letter of 8 October, he stated that the Bill did not prescribe a separate process, rather it “allows an organisation to discharge [...] duties using existing mechanisms.”<sup>34</sup> The Minister “expects” organisations to discharge the duties through existing corporate planning and reporting objectives. The Minister’s official told us:

“We actually looked, in developing the Bill, at putting some sort of a duty around the corporate plan, but I think that only one organisation has a legislative duty to have a corporate plan, so it is not possible to attach it to something where they do not have a legislative duty.”<sup>35</sup>

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<sup>32</sup> RoP [para 105], 25 September, Environment and Sustainability Committee

<sup>33</sup> RoP [para 107], 25 September, Environment and Sustainability Committee

<sup>34</sup> E&S(4)-25-14 paper 5, *Letter from the Minister for Natural Resources*, 8 October 2014

<sup>35</sup> RoP [para 135], 23 October, Environment and Sustainability Committee

97. In response to comments around difficulties in balancing principles, the Minister told us that he recognised these, but that it was something public bodies would need to decide for themselves.

98. The Minister told us that the Bill requires Welsh Ministers to justify their decisions on ground of sustainability:

“I think that we have to be confident in being able to demonstrate the process of sustainable development. As I said earlier, some of those decisions will not be liked by individuals and will not be welcomed by others, but what we have to be able to do is demonstrate the reasoning behind them and why we believe that those decisions have been applied, namely the three core sustainable development principles. So, for a development, in general, we need to apply the principle of saying, ‘This is the reasoning why we think that this has future generation benefits—environmentally or otherwise—or disadvantages’.”<sup>36</sup>

### ***The Committee’s view***

99. We recognise the concern raised by stakeholders that the Bill is too focussed on the governance aspects of public bodies’ functions. We note the Minister’s comments that bodies should embed the principles of this Bill into their existing planning processes and that it should not result in creating a parallel process, however we believe that this should be made clearer.

100. We are concerned that the Bill does not appear to require public bodies to justify all decisions in the context of the duties and principles set out in the Bill. The Bill requires public bodies to develop and meet objectives. The role of the Commissioner is to “monitor and assess the extent to which well-being objectives set by public bodies are being met”. The Commissioner may also make recommendations to public bodies on “how steps can be taken to meet well-being objectives in accordance with the sustainable development principle”.

101. The duties therefore relate to objective setting. However, it does not appear to us that these objectives must comprise all of the activities or decisions of a public body, or that the provisions of the Bill apply to every function. If it is the intention of the Welsh Government that SD become the “central organising principle” of the public bodies listed, this should be made

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<sup>36</sup> RoP [para 257], 23 October, Environment and Sustainability Committee

explicit in the Bill. It is not sufficient to leave this issue to guidance or implication. This could be achieved by placing a duty on public bodies to have due regard to the provisions of the Bill when “exercising any of their functions”. This would be in line with the duty placed on Welsh Ministers through the Rights of Children and Young Persons (Wales) Measure 2011 to have due regard to the UN Convention on the Rights of the Child.

**Recommendation 16: We recommend that the Welsh Government brings forward amendments to make it clear that the provisions of the Bill apply to all functions of public bodies, and to ensure that the scope of the Commissioner’s role extends to all of these functions.**

### Measuring performance towards achieving the goals

#### *Stakeholder views*

102. Many stakeholders told us that clarity was needed around how the goals would actually make a difference and result in improved well-being. Some suggested that the goals and indicators were not specific enough to bring about change, and that targets were required to measure how bodies were progressing. WWF Cymru suggested that without specified targets to aim for, public bodies could say that they were working towards achieving the goals without demonstrating what they had done differently. Anne Meikle said:

“I do not think that any of [the well-being goals] are 100% clear. I think that you have them in there, but they all require, I would suggest, clearer explanations of what you are trying to achieve through setting targets and then requiring people to take those targets into account when they set their objectives.”<sup>37</sup>

103. Haf Elgar, representing Friends of the Earth Cymru agreed; she went on to talk about a “gap between the aspirations, the goals, and the delivery, the driving of change”.<sup>38</sup> In terms of measuring public bodies’ progress in delivering the desired outcomes, she said:

“indicators alone do not necessarily drive change. They can show whether we are making progress or not, but there is a gap in the middle that we need to fill in this Bill of measurements and of targets”.<sup>39</sup>

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<sup>37</sup> RoP [para 244], 1 October, Environment and Sustainability Committee

<sup>38</sup> RoP [para 250], 1 October, Environment and Sustainability Committee

<sup>39</sup> RoP [para 252], 1 October, Environment and Sustainability Committee

104. In relation to the indicators being developed by the Welsh Government to sit beneath the well-being goals, the written evidence from the Office of National Statistics emphasised that “considerations about measurement must not be an afterthought for the Bill”,<sup>40</sup> so that policymakers and statisticians must work closely to develop statistically robust, measurable targets and indicators. ONS also emphasised that indicators must reflect what is important to measure, not just the data that is available. It stressed that new measures may be required, which may have cost implications. Disaggregation is seen to be important, so that “it will be desirable that the national indicators are also consistently available at a local level”; however ONS noted that disaggregation can reduce the robustness of the data.

105. Glen Everett, Director, Measuring National Well-being Programme for the ONS, told us that it would be beneficial if the indicators were granted National Statistics status. He explained that the benefits of this would be:

“the independence of the UK Statistics Authority, which stamps them as a robust set of indicators. It can mean that the statistics meet identified user needs; are well explained and readily accessible; are produced according to sound methods; and are managed impartially and objectively in the public interest”.<sup>41</sup>

### ***Evidence from the Minister***

106. The Minister told us that the well-being goals provided the framework for bodies to set their objectives to improve the well-being of their local area. He believed that the goals would be sufficient to achieve this:

“What I think we have been able to craft into the goals and principles applied to the Bill is continual improvement, ensuring that, from the position where you are now, there is a drive to do something different for the betterment of Wales. I think that that is what the demonstration of the wellbeing goals delivers. The content of that is quite clear in the descriptors underneath the goals.”<sup>42</sup>

107. The Minister went on to say that it would be for the public bodies to determine the implementation of the goals. He said that when assessing

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<sup>40</sup> Environment and Sustainability Committee: *Consultation Response WFG 17, Well-being of Future Generations (Wales) Bill*: Submission from the Office for National Statistics

<sup>41</sup> RoP [para 358], 1 October, Environment and Sustainability Committee

<sup>42</sup> RoP [para 24], 25 September, Environment and Sustainability Committee



public bodies' decisions, the Future Generations Commissioner would have a view on the consideration given to each goal when making a decision:

“...so you have an economic value versus an environmental or social value, of course. The public body will have to be able to demonstrate how it measures the importance of that and what the well-being factor is beyond that... You just have to be able to measure that, and demonstrate that through your well-being process and measuring process, and that is something that the Commissioner will have to fully understand, and the public body will have to demonstrate why it made that choice too.”<sup>43</sup>

108. The Minister said that the indicators underneath the goals would be “indicators for measuring performance, of where we are in Wales”.<sup>44</sup> Amelia John, the senior responsible officer for the Bill, explained that:

“There will be national indicators across Wales, but part of the criteria is that they can be disaggregated at a local level.”<sup>45</sup>

109. The Minister and his official told us that the indicators were unlikely to be available before the Bill was passed, but that they would build on existing indicators for SD. In his letter of 8 October, the Minister wrote that national indicators will give a measure of “shared progress in achieving the well-being goals, nationally and in specific areas of Wales” and will be crucial to the Commissioner’s success. He also said that indicators would not measure the progress of individual public bodies and those bodies would each report annually on progress towards their own objectives. The Minister made clear the importance of the role of the Commissioner in assessing progress at individual public body level.<sup>46</sup>

110. The Minister did not agree with the suggestion that targets were required to measure a body’s performance in improving well-being:

“...we will resist the process about targets and exactly what that public authority should achieve and in what time. This is a journey and is about taking people from the place where they are now—and

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<sup>43</sup> RoP [para 75], 25 September, Environment and Sustainability Committee

<sup>44</sup> RoP [para 77], 25 September, Environment and Sustainability Committee

<sup>45</sup> RoP [para 81], 25 September, Environment and Sustainability Committee

<sup>46</sup> E&S(4)-25-14 paper 5, *Letter from the Minister for Natural Resources*, 8 October 2014

we are all at very different positions in the public sector—to a better place and a better Wales.”<sup>47</sup>

111. In his letter of 3 November, the Minister acknowledged that it was important that the indicators “are designed to measure progress towards the achievement of the well-being goals” and that “National Statistics” designation was an issue he would explore.<sup>48</sup>

### ***The Committee’s view***

112. Whilst recognising the need for local flexibility, we believe that the Minister should provide clarity as to the actual outcomes public bodies should be achieving through the goals in addition to the national indicators. It will be essential for all public bodies to be able to demonstrate how the decisions and actions they take will lead to improved well-being in their local areas. We believe that the most effective way of understanding whether their actions make a difference is to include measurable outcomes below the level of goals. Without a clear sense of both the direction and scale of change required we believe public bodies will be unable to assess whether they’re following the appropriate course of action to meet their objectives. Similarly, the question of what constitutes acceptable progress will be left to the judgment of the Commissioner.

113. The Minister emphasised how the indicators which will sit beneath the Bill will play an important role in measuring progress towards the goals at a national level. As these indicators have not yet been developed, we are unable to comment as to whether they will be an effective means of measuring such progress. However, we endorse the good practice principles raised by ONS and believe the Welsh Government should have regard to these in developing indicators. We believe that these indicators need to be rigorous and be developed to the highest possible standard. We therefore believe that the Minister should commit to working with ONS in their development, and to ensuring that the indicators used have “National Statistics” status in every case where this is possible. In general, we believe it would be appropriate to seek quality assurance from the UK Statistics Authority to ensure that the approach developed as a measurement of progress is both rigorous and effective.

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<sup>47</sup> RoP [para 32], 25 September, Environment and Sustainability Committee

<sup>48</sup> E&S(4)-28-14 paper 5, *Letter from the Minister for Natural Resources*, 3 November 2014

114. We note the concerns raised by stakeholders around not including targets for public bodies to achieve, and we have sympathy with this view. We acknowledge the Minister's reluctance to set targets. However, we ask him to set out clearly how, in the absence of targets, it will be possible to assess whether sufficient progress is being made at a national level. We also ask him to clarify the basis on which the Commissioner and the public bodies themselves should assess progress at public body level.

**Recommendation 17: We recommend that the Welsh Government sets out clearly and concisely exactly what public bodies should achieve as a result of embedding the well-being goals into their decision making processes. We believe that the Minister should set clear, specific outcomes below the level of goals against which public bodies and the Commissioner can assess progress at public body level.**

**Recommendation 18: We recommend that the Welsh Government ensures:**

- that ONS are involved in the development of indicators;
- that the UK Statistics Authority provide quality assurance of the indicators and approach to measurement; and
- that the indicators used have National Statistics status in every case where this is possible.

## 4. Part 3 – The Future Generations Commissioner for Wales

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### Appointment and governance

115. Part 3 of the Bill provides for the creation of a Future Generations Commissioner for Wales, to be appointed by the Welsh Ministers. The Commissioner’s general duty would be “to promote the sustainable development principle” and “to monitor and assess the extent to which well-being objectives set by public bodies are met”.

116. Schedule 2 to the Bill makes further provision for the Commissioner, and provides for a term of 3 to 5 years, with an option for one reappointment.

### *Stakeholder views*

117. The overwhelming majority of respondents to the call for written evidence and those who gave oral evidence felt strongly that the Commissioner should be independent and impartial. It was generally felt that the best way to achieve this would be if the appointment were by the Assembly rather than by the Welsh Government. Professor Robert Lee representing the UK Environmental Law Association said:

“I am sure that we would all agree that what will matter is that the commissioner is independent, impartial and free from political interference. We simply thought that that might be better achieved—both for the commissioner and possibly for the advisory panel—if decisions, for example, in extremis, to dismiss the commissioner, were to be taken by the Assembly rather than by the Ministers. Therefore, we thought that the appointments, in line with sections 16 and 22 of the Bill, were perhaps better made by the National Assembly for Wales. Coming back to symbolism, it sends out something of a symbol of an all-party commitment to sustainable development and well-being for future generations.”<sup>49</sup>

118. Such views were echoed by many of the other stakeholders who gave evidence on this issue. Witnesses representing environmental groups unanimously agreed that the Commissioner should be appointed by the Assembly in order to ensure their independence, especially as part of the

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<sup>49</sup> RoP [para 430], 25 September, Environment and Sustainability Committee

role would involve advising on and potentially criticising the Welsh Government’s decisions. James Byrne, representing Wales Environment Link told us:

“We believe that the Commissioner should be appointed by, and responsible to, the Assembly rather than the Welsh Government because the Commissioner will be potentially prescribing and giving advice to, and, potentially, sanctioning departments within the Welsh Government. So, potentially, there could be a conflict of interest there. So, we think, for independence, and for greater transparency, the commissioner should be responsible to the Assembly rather than to the Welsh Government.”<sup>50</sup>

### ***Evidence from the Minister***

119. In his evidence to us, the Minister was clear that he saw no reason that the appointment of the Commissioner should be made by the Assembly rather than by the Welsh Government. He said that the process was consistent with the appointment of other commissioners, all of whom were appointed by the Welsh Government. He did not accept that there was any reason to deviate from such arrangements:

“I have had no indication to suggest that any of the Commissioners who are in post currently are not independent. The process that we are applying is exactly the same.”<sup>51</sup>

120. In response to questioning on the discrepancies around the proposed length of the Commissioner’s appointment compared to length of the appointment of the Children’s Commissioner, the Minister said that he would welcome our views and that “there should be some consistency.”<sup>52</sup>

### ***The Committee’s view***

121. We note the overwhelming support from stakeholders for the appointment of the Commissioner to be made by the Assembly rather than by the Welsh Ministers, and whilst some Members shared this belief, others accepted the Minister’s reasoning as to why this was not necessary. Whilst we have not come to an overall view as to whom the Commissioner should be appointed by, we believe that there should be cross-party and stakeholder

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<sup>50</sup> RoP [para 279], 1 October, Environment and Sustainability Committee

<sup>51</sup> RoP [para 153], 23 October, Environment and Sustainability Committee

<sup>52</sup> RoP [para 177], 23 October, Environment and Sustainability Committee

involvement in the appointment process, maybe in the form of a pre-appointment panel which might make a recommendation to the appointing body.

122. We believe that the Bill should be amended in order to change the length of the Commissioner's term of office. We believe that the Commissioner should be appointed for a term of 7 years with no reappointment. This would allow a Commissioner sufficient time to establish themselves in the role and to oversee the longer term changes they would envisage necessary. It would also bring consistency with the appointment of the Children's Commissioner for Wales. The single term appointment would also significantly enhance the actual and perceived independence of the Commissioner.

**Recommendation 19: We recommend that there should be cross-party and stakeholder involvement in the process for appointing the Future Generations Commissioner, possibly in the form of an appointment panel making recommendations to the appointing body.**

**Recommendation 20: We recommend that the Future Generations Commissioner should be appointed for a period of 7 years with no reappointment.**

### **Sections 16 to 26 – The duties and functions of the Commissioner and the Advisory Panel**

123. The Commissioner's functions and reporting responsibilities include requirements to report annually on his or her own work programme and public bodies' progress with achieving their well-being objectives, and to produce a five-yearly Future Generations Report. The Commissioner may make recommendations, and this part also sets a duty for public bodies to take all reasonable steps to follow the course of action set out in recommendations made to them by the Commissioner, and to publish their response to any recommendations made.

124. The Commissioner would be supported by an advisory panel, the purpose of which would be to provide advice to the Commissioner on the exercise of the Commissioner's functions. The Bill proposes that the panel consist of the Children's Commissioner for Wales, the Welsh Language Commissioner, the Commissioner for Older People in Wales, the Chief Medical Officer for Wales, the Chair of Natural Resources Wales and such other persons as the Welsh Ministers may appoint.

## ***Stakeholder views***

125. Stakeholders emphasised the need to strengthen the duties and functions of the Commissioner. Peter Davies told us that the Bill needed to provide the Commissioner with the duty to ensure that the public sector in Wales complied with its obligations under the Bill.

126. Professor Baker agreed that the Commissioner should have powers to hold public bodies to account. She suggested that they be able to “operate some form of sanctions on those that are held to account under the Bill”.<sup>53</sup> Professor Calvin Jones concurred that the Commissioner should have greater powers, including:

“specific duties to call to account public bodies under the jurisdiction of the Bill, to request evidence—verbal evidence as well as written documentation—and to be able to impose sanctions.”<sup>54</sup>

127. Representatives from environmental groups stressed the importance of strengthening the powers of the Commissioner to ensure that public bodies be under a duty to follow the Commissioner’s recommendations. Hâf Elgar told us:

“it is worrying that public bodies do not have to follow the recommendations of the Commissioner, and that is problematic if we are looking at sanctions or remedies. The Bill has to be strengthened in order to make sure that there is an enforceable duty and that the powers of the Commissioner are strengthened in order for the Commissioner not to be undermined.”<sup>55</sup>

128. Many stakeholders said that the Commissioner should be granted powers of investigation and to instigate inquiries, similar to the power afforded to the Children’s Commissioner.

129. We were also told that the panel advising the Commissioner should consist of representatives from a range of sectors. Witnesses felt that provision for ensuring such multi-stakeholder involvement was currently missing from the Bill, with many claiming that it currently represents a panel of Welsh Government appointments.

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<sup>53</sup> RoP [para 510], 25 September, Environment and Sustainability Committee

<sup>54</sup> RoP [para 521], 25 September, Environment and Sustainability Committee

<sup>55</sup> RoP [para 269], 1 October, Environment and Sustainability Committee

130. Professor Baker told us that whilst the responsibility for appointing the panel should not rest solely with the Commissioner, the Commissioner should be given a role. She also said that advisory panel should be:

“construed in such a way that what it does is provide the range and depth of expertise that is needed.”<sup>56</sup>

### ***Evidence from the Minister***

131. In his letter of 8 October, the Minister said that he did not believe that the Commissioner’s power around the recommendations he or she would make was weak. He said that if public bodies did not comply with the recommendations, they would be required to publish an explanation of why they considered there was good reason for non-compliance and an alternative course of action.<sup>57</sup>

132. In response to being asked for an example of ‘an appropriate good reason’ for a body not to follow the recommendations of the Commissioner, the Minister’s official said:

“in terms of the recommendations, the reason that organisations can say that they will not comply with those...might be, for example, because they do not feel that they have the capacity to deliver on the recommendation or that the recommendation results in breaking the law or a pre-existing contract.”<sup>58</sup>

133. With regard to the suggestion that the Commissioner be granted investigative powers and the ability to request information from public bodies, the Minister said:

“We would not want the Commissioner to be in her job and not have the ability to use data that would be helpful. I will give that some further consideration in terms of the legislative tools that may be applied.”<sup>59</sup>

134. In response to questions on the membership of the advisory panel, the Minister said:

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<sup>56</sup> RoP [para 524], 1 October, Environment and Sustainability Committee

<sup>57</sup> E&S(4)-25-14 paper 5, *Letter from the Minister for Natural Resources*, 8 October 2014

<sup>58</sup> RoP [para 86], 23 October, Environment and Sustainability Committee

<sup>59</sup> RoP [para 155], 23 October, Environment and Sustainability Committee



“What we are seeking to do with the appointment process for the panel is to ensure that we have a broad range of membership.”<sup>60</sup>

135. The Minister went on to say that he would give further consideration to the involvement of the Commissioner in the appointment of the panel, but that:

“it does not quite sit right with me that a panel scrutinising the Commissioner would be a panel appointed by the Commissioner.”<sup>61</sup>

### ***The Committee’s view***

136. We have great sympathy with the views expressed by stakeholders that the Commissioner should be afforded stronger powers to undertake his or her role in the most effective manner. The role will oversee a period of culture change within public bodies and it is essential that they be able to drive forward these changes.

137. The Commissioner will require the ability to influence public bodies, and we find it difficult to understand how they will be able to do so if those bodies are not under a duty to follow the Commissioner’s recommendations.

138. Whilst section 19(4) gives the Commissioner the powers to require public bodies to provide information relevant to making recommendations, we believe that this provision should be strengthened to encompass information relevant to all of the Commissioner’s functions. The ability to request information from public bodies and to initiate inquiries and investigations will be essential to the Commissioner if he or she is going to really challenge those bodies on the decisions they make.

139. We believe that greater clarity should be provided on the types of circumstances where public bodies can choose not to accept the Commissioner’s recommendations. Whilst we acknowledge the need for local accountability and democracy and limits to the power of an appointed Commissioner, we believe that instances where a body decides not to follow the recommendations of an independent Commissioner should be minimal, and that when such occurrences arise, the body should account for its decision by providing a detailed evaluation of how it arrived at that decision. We note that in oral evidence the Minister’s official was able to set out some circumstances where a recommendation could be avoided and that the Welsh

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<sup>60</sup> RoP [para 148], 23 October, Environment and Sustainability Committee

<sup>61</sup> RoP [para 149], 23 October, Environment and Sustainability Committee

Ministers have the power, though not a duty, under s20(2) to “issue guidance to other public bodies” on their response to a recommendation. We believe that the Welsh Government must issue guidance on responding to the Commissioner’s recommendations, and that this should apply to all public bodies including the Welsh Ministers.

140. We believe that the advisory panel to the Commissioner should comprise a broader range of interests and stakeholders than is currently included. We also believe that the current provision requiring the Welsh Ministers to consult the Commissioner before appointing further members of the panel should be strengthened. The Commissioner should be able to identify gaps where further advice is required. We note the Minister’s reference to a scrutiny function for the panel, however we are not sure how this is provided for in the Bill given that it refers to an advisory role.

**Recommendation 21: We recommend that the powers of the Future Generations Commissioner be strengthened to include power to initiate inquiries and to conduct investigations. The Commissioner’s power to require provision of information should be strengthened to encompass information relevant to all of the Commissioner’s functions, not only to the making of recommendations.**

**Recommendation 22: We recommend that the Welsh Government provide guidance to all public bodies to clearly define the types of circumstances in which they can avoid a recommendation of the Future Generations Commissioner.**

**Recommendation 23: We recommend that should public bodies decide not to follow a recommendation made by the Future Generations Commissioner, that body should be expressly required to justify how and why it arrived at that decision as part of its response prepared under section 20(4).**

**Recommendation 24: We recommend that the advisory panel to the Commissioner should comprise a broader range of interests and stakeholders than is currently included and that the current provision requiring the Welsh Ministers to consult the Commissioner before appointing further members of the panel should be strengthened to allow the Commissioner to identify areas where advice is required.**

## The role of the Auditor General for Wales

141. The EM states that the Auditor General for Wales is “under a duty to consider the effectiveness and efficiency of the use of resources for the majority of bodies covered by the Bill”.

### *Stakeholder views*

142. The Auditor General told us that he did not agree with the statement in the EM, he said:

“as regards my duties, there is actually a very real expectation gap being created. If Ministers and the officials advising them believe that I will be carrying out an annual review of each particular body, they will be sadly mistaken. Indeed, they get wrong my powers and they get wrong the explanatory memorandum explaining those powers. Neither existing legislation nor the Bill, as they construe it, places a duty on the AGW to do what they think I should be doing.”<sup>62</sup>

143. The Auditor General stated that if this function is expected of him, then a specific duty should be included in the Bill. He provided a suggested form of words to be inserted after Section 8, which he believed to be an appropriate duty:

( ) Auditor General’s examinations of compliance with the sustainable development principle

(1) The Auditor General for Wales must undertake examinations of the compliance of each public body with the requirements of section 8 (Setting and meeting well-being objectives: sustainable development principle).

(2) The Auditor General for Wales must before the end of each reporting period lay before the National Assembly for Wales a report on the examinations undertaken under subsection (1).

In this section “reporting period” has the same meaning as in section 21.

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<sup>62</sup> RoP [para 134], 1 October, Environment and Sustainability Committee

144. The Auditor General raised concern around the function of the Commissioner being “both an encouraging body and a policing body,”<sup>63</sup> he told us:

“I would like the Commissioner to have the ability to encourage—that seems to me to be the key role of the Commissioner—and for my role to be audit.”<sup>64</sup>

He also told us that the Bill requires bodies and PSBs to send many reports and assessments to him. He was unclear as to what he would be expected to do with these.

145. The Auditor General subsequently wrote to us on 25 November to provide an update on discussions he had held with the Minister. In this letter he stated that he and the Minister had agreed a Policy Note which sets out a role for the Auditor General. He said that the role would “provide a reasonable degree of consistent audit examination on the setting and achieving of well-being objectives across the Welsh public sector.” He also said that the Minister had indicated that the Policy Note would be translated into an appropriate Government amendment to the Bill.<sup>65</sup>

### ***Evidence from the Minister***

146. During oral evidence, we asked the Minister to respond to the concerns raised by the Auditor General. The Minister acknowledged the issues raised and committed to meeting the Auditor General to discuss these. The Minister went on to suggest that the discrepancy was down to differences in the interpretation of the Bill, and that he was confident it could be resolved.

147. In relation to how the role of the Auditor General would fit in alongside the Commissioner, the Minister said:

“I think that the process for the Auditor General is about the inspection process for public bodies.”<sup>66</sup>

148. In his letter of 8 October, the Minister said that it was important that public bodies are accountable for their compliance with the duties contained within the Bill. The letter stated:

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<sup>63</sup> RoP [para 162], 1 October, Environment and Sustainability Committee

<sup>64</sup> RoP [para 144], 1 October, Environment and Sustainability Committee

<sup>65</sup> *Letter from the Auditor General for Wales*, 25 November 2014

<sup>66</sup> RoP [para 64], 23 October, Environment and Sustainability Committee

“It is intended that this will take the form of a review of the economy, efficiency and effectiveness of the arrangements made by each of the public bodies...It is the Welsh Government view that this review can be carried out by the Auditor General for Wales as part of the current audit framework.”<sup>67</sup>

### ***The Committee’s view***

149. We were concerned to hear of the significant issues raised by the Auditor General in relation to the discrepancies in the Bill around his powers. It is unfortunate that these issues were not resolved prior to the introduction of the Bill. We are aware that the Minister has met the Auditor General to discuss these matters, although we are disappointed that the outcome of this and a subsequent meeting between Welsh Government and Wales Audit Office officials was not known to us until two days prior to the publication of this report.

150. The role of the Auditor General in overseeing compliance with the provisions of this Bill is a vital component of the legislation, and we are concerned that the role is not adequately defined and that the Auditor General himself is unclear about the reason why reports prepared under the Bill would be sent to him. We believe that clarity should be provided by the Minister as to the Auditor General’s role as a matter of urgency.

151. We note the Auditor General’s letter of 25 November in which he stated that he and the Minister had agreed a role for the Auditor General and that he understood the Minister would table an amendment to the Bill to reflect this.

**Recommendation 25: We recommend that the Welsh Government resolves the issues around the duty on the Auditor General as soon as possible and make the outcome known to us prior to the Stage 1 debate on the general principles of this Bill. Should it be necessary to consequently amend the provision in the Bill, the Minister should bring forward an amendment to do so during Stage 2 procedures. Any proposed change to the Auditor General’s duties should only be brought forward with the consent of both the Assembly’s Finance Committee and the Public Accounts Committee. This is to ensure that the broader implications of placing additional duties on the Auditor General can be**

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<sup>67</sup> E&S(4)-25-14 paper 5, *Letter from the Minister for Natural Resources*, 8 October 2014

**considered and to satisfy the Assembly that any additional duties do not constrain the Auditor General's freedom to exercise his or her functions.**

## 5. Part 4 – Public Services Boards

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152. Part 4 of the Bill provides for the establishment of statutory Public Services Boards (PSB) for each local authority and sets out their membership, invited participants and other partners. The aim of each PSB would be to improve the economic, social and environmental well-being of its area in accordance with the SD principle (the “local aim”).

153. Each PSB would be required to develop a local well-being plan, including objectives designed to maximise contribution to achieving the national well-being goals in accordance with the SD principle. They would need to take all reasonable steps to achieve the objectives included in this plan. This part of the Bill sets out requirements for the preparation, approval and review of local well-being plans, as well as assessment and reporting. It also sets out the powers of the Welsh Ministers in relation to the merging, collaboration, performance indicators and standards of PSBs.

### **Sections 27 to 33 – Establishment, participation and scrutiny**

154. The Bill prescribes that the statutory membership of each PSB consists of the local authority, local health board, the relevant fire and rescue authority and Natural Resources Wales. Each PSB must invite the Welsh Ministers, the relevant chief constable and police and crime commissioner, the relevant providers of probation services and a representative body of voluntary organisations to participate. Section 28(2) allows PSBs to invite others who exercise public functions to participate.

### ***Stakeholder views***

155. Many stakeholders who referred to PSBs were positive about the potential benefits of putting integrated community planning currently undertaken by voluntary Local Services Boards (LSBs) on a statutory footing, including improving the credibility and status of the boards. However a number of areas of concern were raised.

156. Most stakeholders broadly agreed that the Bill sets out the right participants for PSBs, though many suggested additional participants including environmental, children and young people, disability and carer interests. Will McLean, representing Monmouthshire LSB told us that under the current arrangement, that board had successfully engaged other partners in its work and Heather Delonnette, SD co-ordinator for Powys County Council expressed concern that specifying particular participants in PSBs

could be a limiting factor. Mr McLean went on to say that the membership of each PSB should reflect the needs of the area it serves, he said:

“I think that what is really important is that each area has the ability to have an LSB or a PSB that reflects its needs and aspirations.”<sup>68</sup>

157. The WLGA suggested that the role of the Welsh Ministers within PSBs was extensive and may reduce flexibility and have an impact on local democracy:

“Whilst the Bill sets out continued Welsh Government membership of the PSB, the Bill allows Welsh Government to prescribe the role and processes of the PSBs and confers powers on Ministers (such as the power to over-turn local plans).”<sup>69</sup>

During oral evidence, Daniel Hurford, Head of Policy (Improvement and Governance) at the WLGA expanded on this concern:

“There is also the fact that Ministers can refer things to scrutiny, so it is effectively a ministerial call-in. We would think that local, democratically elected Members should have their own agenda, and decide what or when they look at things.”<sup>70</sup>

158. Stakeholders described lines of accountability as confused since the Bill prescribes roles for local overview and scrutiny committees, the Auditor General for Wales, the Welsh Ministers and the Future Generations Commissioner. This issue was highlighted to us by Mark Thomas, Head of Audit at Merthyr Tydfil County Borough Council who said it would be important to balance local and national priorities along with scrutiny by the various bodies with oversight responsibilities.

159. The WLGA raised a particular concern regarding the duty on overview and scrutiny committees to report their findings on the board’s work to Welsh Ministers, the Commissioner and the Auditor General rather than to the board itself. Daniel Hurford, said:

“while the scrutiny committees have the potential power to scrutinise and challenge, which is good and should be strengthened, we do have a concern about the fact that they should be reporting to Welsh

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<sup>68</sup> RoP [para 244], 9 October, Environment and Sustainability Committee

<sup>69</sup> Environment and Sustainability Committee: *Consultation Response WFG 69, Well-being of Future Generations (Wales) Bill*: Submission from the WLGA

<sup>70</sup> RoP [para 161], 9 October, Environment and Sustainability Committee



Ministers. They should be reporting to the local authority or the public service board.”<sup>71</sup>

160. Concerns relating the preparedness of public bodies to implement these changes and the resources available to them were also raised with us. The WLGA said that it was helping “early adopters” to “work through the implications of the Bill and ensure that necessary preparatory work is being undertaken.” But Tim Peppin from the WLGA added that:

“...there are also large areas where there is a lot of work to be done.”<sup>72</sup>

161. Concern was also expressed by Natural Resources Wales and other PSB members about the need to resource multiple PSBs. NRW suggested that the merger of PSBs should begin now as part of plans for local government reform.

### ***Evidence from the Minister***

162. The Minister rebutted claims that the involvement of Welsh Ministers in PSBs was excessive. His letter said that Ministers have “relatively few powers” and the Bill relies predominantly on local government scrutiny and processes. In oral evidence he compared powers to “call in” powers in the planning process, and confirmed that his intention was to limit powers in this Bill to intervening on process.

163. In relation to the various means of accountability, the Minister told us:

“on having a hierarchy, possibly the first point of call would be a scrutiny committee and, from there, it might develop into some other detailed discussion with the other elements of the scrutiny process.”<sup>73</sup>

164. The Minister’s official told us that local government reform was being factored into the process of establishing statutory PSBs. She said that in light of such reform, a phased commencement of PSBs would be envisaged. The Minister went on to say that the voluntary merger of existing LSBs could occur in the meantime.

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<sup>71</sup> RoP [para 161], 9 October, Environment and Sustainability Committee

<sup>72</sup> RoP [para 187], 9 October, Environment and Sustainability Committee

<sup>73</sup> RoP [para 212], 23 October, Environment and Sustainability Committee

### *The Committee's view*

165. We note the evidence presented to us by stakeholders and have serious reservations around the establishment of statutory PSBs as a means to delivering the intended outcomes of the Bill.

166. We share stakeholders' concern around the membership of the PSBs, we feel that prescribing such high level membership will result in smaller organisations such as community groups or the voluntary sector being precluded from participation. We note that PSBs can invite other public bodies to participate, but this will rely on the good-will of those boards in engaging those closer to communities. We are unclear why invitations to participate under section 28(2) are limited to those exercising "functions of a public nature". This seems to limit unnecessarily the scope for PSBs to engage with a wide range of sectors and interests. It is vital, if PSBs are going to be effective, that the membership of boards should reflect the needs of the communities they will be serving. Local people should be empowered to contribute to addressing the well-being needs of their communities, rather than wait for an invitation from officials. We believe that the Minister should address these concerns as a matter of urgency.

167. We have serious concerns regarding the accountability of PSBs. Despite there being several tiers, we remain unclear as to how the PSBs will be accountable to local people. Our over-riding concern is that the PSBs will result in an additional layer of bureaucracy with no clear accountability to the communities they will serve.

**Recommendation 26: We recommend that the Welsh Government reviews the approach to the membership and accountability of, and participation in, PSBs to ensure inclusion of a wide range of sectors and interests with differing expertise which represent the needs of the communities they serve. The invitation to participate in PSBs should not be restricted to public bodies.**

**Recommendation 27: We recommend that the Welsh Government reviews the scrutiny arrangements for PSBs taking account of the concerns raised.**

### **Sections 34 to 45 – Improving local well-being**

168. These sections outline the responsibilities of PSBs in contributing to improving the well-being of their local areas, and sets out how they should

achieve this through assessing well-being needs and preparing local well-being plans.

### ***Stakeholder views***

169. Section 36 of the Bill sets out those with whom PSBs must consult in preparing their well-being assessments. It also lists a series of statutory assessments which PSBs must take into account in preparing their assessments of local well-being. Some stakeholders have suggested that since these assessments are entirely social, this may create an imbalance toward social issues in plans and assessments.

170. In its written evidence, the WLGA proposed that the Bill should include a duty on the Welsh Ministers to take account of the local assessments and plans prepared by PSBs:

“In recognition of the value of the voice of local communities, there should be a consequential duty on Welsh Ministers to have regard to local intelligence, needs assessments and wellbeing plans to inform its own national evidence and policy development.”<sup>74</sup>

Representatives from LSBs agreed with this suggestion.

171. Some stakeholders suggested that it was important that reporting cycles allow comparability between bodies and that currently provisions permit reporting at different times. Some also suggested that reporting requirements could be onerous and detract from delivery.

### ***Evidence from the Minister***

172. In his letter of 8 October, the Minister highlighted that section 35 requires analysis of the state of well-being in each PSB area so that “assessment of local need must include an analysis of the state of economic, social and environmental well-being”. However, in oral evidence he told us that he was sympathetic to looking at the detail of section 36 again:

“I think that there may be interpretation or some drafting issues, potentially, there.”<sup>75</sup>

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<sup>74</sup> Environment and Sustainability Committee: *Consultation Response WFG 69, Well-being of Future Generations (Wales) Bill*: Submission from the WLGA

<sup>75</sup> RoP [para 216], 23 October, Environment and Sustainability Committee

173. While his official reiterated that section 36 does not contain an exhaustive list, it should be noted, however, that this is not clear in the Bill. Section 36(3) states simply “in preparing its assessment, each board must take each of the following [assessments] into account”. The effect of listing specific assessments without referring to them as examples may suggest that only these assessments should be considered, or at least raise the profile of these social issues over those related to economy and environment.

### ***The Committee’s view***

174. We note the concerns raised that the social nature of the assessments may create an imbalance toward social issues in the well-being plans, and believe that steps should be taken to address this.

175. We have sympathy with the suggestion that the Welsh Ministers should have a duty to take the local well-being assessments and plans into consideration when formulating national policy. This would ensure that well-being needs are taking into account when decisions are made at both local and national levels.

**Recommendation 28: We recommend that the Welsh Government reviews the approach to assessment of local well-being, particularly the provisions of sections 35 and 36, to ensure an appropriate balance between economic, social and environmental issues is achieved in their preparation.**

### **Schedule 4 – Consequential amendments and repeals**

176. Schedule 4 to the Bill provides for consequential amendments and repeals which the explanatory notes accompanying the Bill state are intended “to support the implementation of the provisions in Part 4 of the Bill”. The EM states “well-being plans will....incorporate a range of more specific planning duties from other legislation” which are set out in schedule 4.

### ***Stakeholder views***

177. Stakeholders expressed concern about the potential impact of schedule 4 in the implementation of a health in all policies approach, the impact on planning for children and young people, and the impact on planning for carers.

178. Section 40 of the National Health Service (Wales) Act 2006 currently requires each local authority in Wales and local health boards (LHBs) to

jointly formulate a “health and well-being strategy” and is repealed by schedule 4. As a result, the EM states:

“there will no longer be a separate requirement for health social care and well-being strategies. The Bill as a whole, including the provisions in Part 4, is intended to implement a ‘health in all policies’ approach.”

179. However LHBs and Public Health Wales suggested that repealing this provision, without a specific and explicit requirement in the Bill to embed the ‘health in all policies’ approach, was a concern. Public Health Wales told us that because health was not included in the common aim “the concept of health in all policies is not sufficiently explicit” despite inclusion in the goals:

“So, we have a piece of legislation in the National Health Service Act that explicitly requires something, which is a health and well-being needs assessment, and we are talking about removing something explicit by a piece of legislation where health is more implicit.”<sup>76</sup>

180. It should be noted that the witnesses’ preferred solution was the inclusion of “health in the common aim”, rather than the preservation of section 40.

181. Related concerns were raised by organisations representing the needs of carers. Section 14 of the Social Services and Well-being (Wales) Act 2014 requires local authorities and LHBs to jointly assess the “needs of care and support, support for carers and preventative services”.

182. The Bill repeals sub-section 14(3), which requires health and well-being strategies prepared under section 40 of the National Health Service (Wales) Act 2006 to take account of this assessment of carer needs, and also requires authorities to submit to the Welsh Ministers “any part of the strategy which relates to the health and well-being of carers”. Section 36 of the Bill brings the strategies prepared under section 14 of the Social Services and Well-being (Wales) Act 2014 within the scope of the assessment of local well-being to be prepared by PSBs.

183. Those representing carers were concerned about this. They highlighted that section 14(3) was included to preserve a provision of the Carers Strategies (Wales) Measure 2010, which the Welsh Government had initially intended to repeal via the Social Services and Well-being (Wales) Act 2014.

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<sup>76</sup> RoP [para 489], 9 October, Environment and Sustainability Committee

Stakeholders suggested that an effective provision would be diluted. Written evidence from Carers Wales states:

“Even though this Bill states that assessments undertaken by the Public Service Boards will have to include carers, and the objectives are to improve the well-being of their populations, then carers must be a fundamental part of this and there must be a replication of the current duty for health to maintain the lead to develop carer information strategies in line with the Carers Strategies (Wales) Measure 2010. Currently, the Bill contains one reference to carers in section 36 and the Bill does not specify the content of the local wellbeing plans under section 37.”<sup>77</sup>

184. Finally, concerns were raised by stakeholders representing children and young people, particularly in relation to the repeal of section 26 of the Children’s Act 2004 which requires local authorities to prepare Children and Young People Plans (CYPPs).

185. The EM states that although section 26 is repealed:

“the substantive duties in section 25 of the Children Act 2004, as well as the relevant sections of the Children and Families (Wales) Measure 2010 (relating to child poverty) and the Mental Health (Wales) Measure 2010 will still be in force and will be discharged through the local well-being plan.”

186. While stakeholders welcomed the statutory approach to integrated community planning, they expressed concerns about the extent to which the needs of children and young people will be considered in local well-being plans. For example, NSPCC’s written evidence states:

“We are extremely concerned that it is intended to repeal Section 26 of the Children Act 2004, the requirement for Children and Young People’s Plans. These plans have brought together organisations to jointly plan, co-ordinate, deliver and sometimes result in co-location of services for children and families which has benefited children and

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<sup>77</sup> Environment and Sustainability Committee: *Consultation Response WFG 41, Well-being of Future Generations (Wales) Bill*: Submission from Carers Wales

families and has led to some economies and reduction of duplication.”<sup>78</sup>

187. More broadly, NSPCC and Barnardo’s Cymru referred to research suggesting consideration of the needs of children and young people by LSBs has been variable. While groups were particularly concerned about the implications of the repeal of the requirement for CYPPs, other aspects of schedule 4 related to children were also seen to be a cause for concern. This included the practical impact of bringing strategies for contributing to the eradication of child poverty prepared under the Children and Families (Wales) Measure 2010 within the scope of the local well-being plan.

188. The concerns of stakeholders from the children’s sector were expressed alongside wider concerns that public bodies are not required to have regard to the United Nations Convention on the Rights of the Child.

### ***Evidence from the Minister***

189. In oral evidence the Minister told the Committee:

“I think there are some indirect consequences of the Bill process. My team is in discussion with organisations regarding the carers and children element of this particular Bill and how that interacts with others. I would not be seeking to diminish their rights in any way.....

“...I do not think that it requires an amendment within the Bill, but it may just mean that we do not do something with another Bill.”<sup>79</sup>

190. He subsequently wrote to the Committee setting out the approach taken, concluding:

“I believe that the planning, governance, scrutiny and reporting provisions in Part 4 of the Bill provide comprehensive mechanisms for ensuring that the needs of specific groups are considered.”<sup>80</sup>

### ***The Committee’s view***

191. We note the Welsh Government’s intention that the issues discussed above will be reflected within arrangements set out in part 4 of the Bill. We

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<sup>78</sup> Environment and Sustainability Committee: *Consultation Response WFG 32, Well-being of Future Generations (Wales) Bill*: Submission from NSPCC

<sup>79</sup> RoP [para 201 & 203], 23 October, Environment and Sustainability Committee

<sup>80</sup> E&S(4)-28-14 paper 5, *Letter from the Minister for Natural Resources*, 3 November 2014

also note that many bodies identifying issues with aspects of schedule 4 support the principle of statutory integrated community planning.

192. Despite reassurances from the Minister, we share the concerns of the stakeholders that schedule 4 removes express provisions in other legislation, often to replace these with only implicit provision in the Bill. We are particularly concerned given evidence highlighting the variable nature of current provision through the voluntary LSB / Single Integrated Plan approach.

193. We believe that a number of amendments and repeals set out in schedule 4, coupled with the apparent intention that PSBs should have significant local discretion, create a risk that consideration of key issues such as 'health in all policies' and the needs of carers, children and young people will be less effective. While we welcome the Minister's acknowledgement that there may be indirect consequences from the Bill, we regret that he was not more specific in suggesting a solution.

194. We note the concerns from both the health and children's sector regarding the need for an explicit requirement to adopt a health in all policies approach and to enshrine the UN Convention on the Rights of the Child. We recognise the Welsh Government's intention that health and children's issues be addressed through the Bill. However, we believe it is unclear whether this intention will be achieved based on the information currently available, and particularly without sight of guidance.

195. We are also concerned that provisions of recent legislation are being amended almost immediately after enactment. This is particularly true of the carer sector where provisions of a 2010 Measure were replaced by section 14(3) of the Social Services and Well-being (Wales) Act 2014, which would in turn be repealed by this Bill before section 14 has even entered into force.

196. We are concerned that this shows a lack of strategic approach to legislation in key areas of social policy. We believe that this risks generating confusion among relevant bodies and representative groups, but also inadvertently creating gaps in provision in these key areas.

**Recommendation 29: We recommend that the Welsh Government reviews schedule 4 and the approach to local well-being planning, particularly in relation to the 'health in all policies' approach and the needs of carers, children and young people, to ensure that a sufficiently robust approach to these issues is achieved in the planning process.**



**Recommendation 30: We recommend that the Welsh Government considers whether express reference to the ‘health in all policies’ approach and the UN Convention on the Rights of the Child should be included in the Bill and make clear how the issues raised by stakeholders will be addressed in delivery of the Bill.**

## 6. The Regulatory Impact Assessment and Financial Provisions

197. A detailed Regulatory Impact Assessment (RIA) contained in the EM presents the costs of several options considered under each of four main policy intentions. Table 1 below provides a summary of the additional costs associated with each policy option, which the RIA suggests will be incurred as a result of implementing the preferred options (i.e. the Bill).

Table 1: Summary of additional costs associated with each policy option

Policy intention	2015-16	2016-17	2017-18	2018-19	2019-20	Total
1 and 2) To improve governance arrangements and to embed sustainable development within specified public authorities	158,200	205,100	85,900	107,900	107,900	<b>665,000</b>
3) To establish an independent Commissioner for Future Generations	797,470	745,101	745,101	745,101	745,101	<b>3,777,874</b>
4) To reform integrated community planning	35,500	142,100	131,600	131,600	131,600	<b>572,400</b>
<b>Total additional cost of the Bill</b>	<b>991,170</b>	<b>1,092,301</b>	<b>962,601</b>	<b>984,601</b>	<b>984,601</b>	<b>5,015,274</b>

198. The Welsh Government commissioned PricewaterhouseCoopers (PWC) to assess the administrative impact of the Bill on public bodies subject to its provisions but it was unable to provide an estimate of costs. The EM explains that the organisations who participated in the PWC research:

“(...) were not able to establish a baseline position in relation to their current cultures and behaviours and as a result PWC were unable to provide even a broad estimate of the likely costs associated with cultural change.”

199. The PWC report concluded that the benefits of the Bill significantly outweighed the negative administrative impacts associated with implementation. However it also states:

“It was clear from our work with stakeholders that there was significant variation in understanding the relative SD maturity of respective organisations by the leaders and managers who worked for them.”

And

“On this assessment there is still a significant amount of effort required to ensure that councils can effectively align their resources to the goals.”

### ***Stakeholder views***

200. Written evidence from the Chair of the Wales Audit Office Board and the Auditor General for Wales raised significant issues in relation to the RIA costs. The Auditor General said that whilst his observations were “based only on a reading of the Explanatory Memorandum, rather than an audit of the underlying working papers,” he described the administrative “cost indications” as “somewhat underestimated.”<sup>81</sup> During his oral evidence session, he said:

“it is not normal for me to audit at the various impact assessments, but what did strike us from looking at the bits in the explanatory memorandum that related to this is that, first of all, they got my costs wrong because they have taken another figure in to that element. There is also the way in which they costed the staffing cost, for example. I indicated in my evidence on this that this does not include the on-costs, which add 30% to a salary. Some of the salary figures that they have used for local authorities did seem odd. These certainly seem to underplay the salary costs.”<sup>82</sup>

201. The Auditor General told us that it would be possible for him to undertake an audit of the underlying working papers in order to get a more accurate understanding of the costs involved. He agreed to undertake such an audit at our request, the outcome of which is expected to be available in time for the Stage 1 debate on the general principles of the Bill.

202. The WLGA stated that the RIA under-estimated the cost associated with local government contribution to PSBs and asked whether current Welsh Government support to LSBs would continue to be available.

203. A number of consultation responses received from public bodies which will be subject to the Bill, including the NHS Confederation and Natural Resources Wales, also questioned the basis of the cost estimates.

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<sup>81</sup> Environment and Sustainability Committee: *Consultation Response WFG 20, Well-being of Future Generations (Wales) Bill*: Submission from the Auditor General for Wales

<sup>82</sup> RoP [para 193], 1 October, Environment and Sustainability Committee

204. Many stakeholders were concerned about resources available for the Commissioner. Cynnal Cymru, which supports the current Commissioner for Sustainable Futures, suggested the budget set out in the RIA was insufficient to effectively fulfil the role. Amongst other aspects of the Commissioner’s costs, the RIA estimates a total of 20 staff in the Commissioner’s office, with an annual research budget of £20,000.

***Evidence from the Minister***

205. The Minister is aware of our request to the Auditor General that he undertake an audit of the underlying working papers associated with the financial provisions in this Bill. The Minister gave us his assurance that he and his officials would co-operate fully with the Auditor General on this matter.

206. The Minister refuted the claims made by public bodies that implementing the provisions of this Bill would lead to increased costs for them. He reiterated the statements that the Bill would be placing a statutory duty on bodies to consider SD in their policies, but that they should already be doing so through their existing planning processes and would not need to create new ones. He said:

“So, I do not accept that there is additionality, nor do I accept that it will cost more to do this.”<sup>83</sup>

207. The Minister went on to say that he believed that using the SD principle and the well-being goals could assist those bodies in reaching difficult decisions, he said:

“If they apply the sustainable development criteria around the future generations Bill, they can demonstrate how they have come to that conclusion.”<sup>84</sup>

208. In response to questioning on the funding for PSBs, the Minister appeared open to the suggestion that other PSB participants should contribute to their funding.

“By putting PSBs on a statutory footing in terms of this process, there may be an argument for defining who pays what within that contribution. So, there will be others, other than local authorities,

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<sup>83</sup> RoP [para 110], 23 October, Environment and Sustainability Committee

<sup>84</sup> Ibid

other public sector bodies, in that decision-making process that should be partners, true partners, and that might mean making financial contributions, too.”<sup>85</sup>

209. The Minister’s official, Sioned Rees, Deputy Director for Local Government Partnerships, said that an announcement on the Welsh Government funding currently provided to LSBs would be made on completion of the process for agreeing the budget for 2015-16.

210. When asked whether he believed that the estimates provided for the office of the Commissioner was sufficient to carry out investigative and evidence gathering work, the Minister said he believed that it was.

### *The Committee’s view*

211. We are grateful to the Auditor General for agreeing to conduct an audit of the papers in order to verify the accuracy of the costs involved with this Bill. Whilst it is unfortunate that the results of this audit will not be available to be considered as part of our deliberations on this report, they will be useful to Members during the debate on the general principles of the Bill.

212. We are concerned that the evidence from so many public bodies disputed the accuracy of the estimated costs that would fall on them. We acknowledge the uncertainty this would mean for them, particularly at a time when so many face cuts to their budgets.

213. We note the issues raised by public bodies in relation to the cost of their participation in PSBs. We note the particular concern to those organisations who will be members of multiple PSBs such as Natural Resources Wales and the fire and rescue authorities.

214. We also note the concern raised by stakeholders on the sufficiency of the budget provided for the office of the Future Generations Commissioner. As we have said previously, the Commissioner will be tasked with influencing the work of public bodies and challenging the decisions they make. The Minister has made clear to us that the Commissioner is central to the delivery of this Bill. We strongly believe that in addition to enhanced powers it is essential that their office is resourced accordingly in terms of both sufficient staff and finances.

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<sup>85</sup> RoP [para 119], 23 October, Environment and Sustainability Committee

**Recommendation 31: We recommend that the Welsh Government takes note of the audit being undertaken by the Auditor General for Wales on the cost and resources estimates included in the Regulatory Impact Assessment and update the RIA based on its findings.**

**Recommendation 32: We recommend that the Welsh Government review the estimated costs for the office of the Commissioner included in the EM and ensure that adequate resources are available to deliver this important function.**

## Annexe 1 - List of written evidence

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The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at:

[www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=140](http://www.senedd.assembly.wales/mgConsultationDisplay.aspx?ID=140)

<b>Organisation</b>	<b>Reference</b>
Mr C. Mason	WFG 01
Merthyr Tydfil Local Service Board	WFG 02
Chwarae Teg	WFG 03
Campaign for the Protection of Rural Wales	WFG 04
Julian J Wood	WFG 05
Community Housing Cymru Group	WFG 06
Carnegie UK Trust	WFG 07
Barnardo's Cymru	WFG 08
World Future Council	WFG 09
University of Dundee School of Law	WFG 10
South Wales Fire & Rescue Service	WFG 11
UK Environmental Law Association Wales	WFG 12
Royal College of Physicians (Wales)	WFG 13
Directors of Public Health for the Health Boards of Wales	WFG 14
Samaritans	WFG 15
Cynnal Cymru / Sustain Wales	WFG 16
Office for National Statistics	WFG 17
Chair, Wales Audit Office	WFG 18
National Federation of Women's Institutes-Wales	WFG 19
Auditor General for Wales	WFG 20
RSPB Cymru	WFG 21
Higher Education Wales	WFG 22
Age Cymru	WFG 23
Wales Environment Link	WFG 24
One Planet Council	WFG 25

Ant Flanagan	WFG 25a
Older People's Commissioner for Wales	WFG 26
Play Wales	WFG 27
Royal Town Planning Institute (RTPI) Cymru	WFG 28
Hafal	WFG 29
Higher Education Funding Council for Wales	WFG 30
Federation of Small Businesses Wales	WFG 31
National Society for the Prevention of Cruelty to Children (NSPCC)	WFG 32
Torfaen County Borough Council and Torfaen Local Service Board	WFG 33
Welsh NHS Confederation	WFG 34
Oxfam	WFG 35
Wales UNCRC Monitoring Group	WFG 36
Sustainable Development Co-ordinators Cymru Network	WFG 37
Action For Children	WFG 38
Wales Carers Alliance	WFG 39
Hywel Dda University Health Board	WFG 40
Carers Wales	WFG 41
ASH Wales	WFG 42
Wales Co-operative Centre	WFG 43
National Parks Wales	WFG 44
BMA Cymru Wales	WFG 45
Alliance for National Parks Cymru	WFG 46
Merthyr Tydfil Borough Wide Youth Forum	WFG 47
Stop Climate Chaos Cymru	WFG 48
Public Health Wales	WFG 49
Alzheimer's Society	WFG 50
Children's Commissioner for Wales	WFG 51
Wales Council for Voluntary Action	WFG 52
Carers Trust Wales	WFG 53
Police and Crime Commissioner for South Wales	WFG 54



Parkinson's UK Cymru	WFG 55
Welsh Language Commissioner	WFG 56
Fair Trade Wales and the Wales International Development Hub	WFG 57
Mind Cymru	WFG 58
Natural Resources Wales	WFG 59
Commissioner for Sustainable Futures	WFG 60
Friends of the Earth Cymru	WFG 61
Climate Change Commission for Wales	WFG 62
Cymdeithas yr Iaith Gymraeg	WFG 63
WWF Cymru	WFG 64
Institute of Environmental Management & Assessment	WFG 65
Professor Calvin Jones, Cardiff Business School	WFG 66
Stefan Cartwright	WFG 67
Katy Fowler	WFG 68
Welsh Local Government Association (WLGA)	WFG 69
Wales TUC Cymru	WFG 70
Sustainable Places Research Institute, Cardiff University	WFG 71
UK National Commission for the United Nations Educational, Scientific and Cultural Organisation (UNESCO)	WFG 72
Cardiff and Vale University Health Board	WFG 73
Welsh Collaboration for Health and Environment	WFG 74
National Museum Wales	WFG 75
Arts Council of Wales	WFG 76
Leonard Cheshire Disability	WFG 77
One Voice Wales	WFG 78

Additionally, 100 submissions were submitted in response to a campaign on the Shaping our Future website.

## Annexe 2 - Witnesses

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The following witnesses gave evidence to the Committee. Transcripts of the meetings can be viewed at:

[www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?lId=1308](http://www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?lId=1308)

<b>25 SEPTEMBER</b>	
<b>Session 1</b>	
Carl Sargeant AM	Minister for Natural Resources
Amelia John	Welsh Government
Andrew Charles	Welsh Government
Sioned Rees	Welsh Government
Louise Gibson	Welsh Government
Owain Morgan	Welsh Government
<b>Session 2</b>	
Ceri Davies	Natural Resources Wales
Clive Thomas	Natural Resources Wales
<b>Session 3</b>	
Peter Davies	Commissioner for Sustainable Futures
David Fitzpatrick	Cynnal Cymru / Sustain Wales
<b>Session 4</b>	
Professor Robert Lee	UK Environmental Law Association
Dr Haydn Davies	UK Environmental Law Association
Dr Victoria Jenkins	UK Environmental Law Association
<b>Session 5</b>	
Professor Calvin Jones	Cardiff Business School
Professor Susan Baker	Sustainable Places Research Institute, Cardiff University

<b>1 OCTOBER</b>	
<b>Session 6</b>	
Huw Vaughan Thomas	Auditor General for Wales
Michael Palmer	Wales Audit Office
Mike Usher	Wales Audit Office
Martin Peters	Wales Audit Office
<b>Session 7</b>	
Anne Meikle	WWF Cymru
Haf Elgar	Friends of the Earth Cymru
Peter Jones	RSPB Cymru
James Byrne	Wildlife Trusts Wales, representing Wales Environment Link
<b>Session 8</b>	
Glenn Everett	Office for National Statistics
Abbie Self	Office for National Statistics
<b>9 OCTOBER</b>	
<b>Session 9</b>	
Toni Schiavone	Cymdeithas yr Iaith Gymraeg
Hannah Sheppard	Wales International Development Hub
Gareth Coles	Wales Council for Voluntary Action
Keith Bowen	Wales Carers Alliance
Sam Clutton	Barnado's Cymru
<b>Session 10</b>	
Dr Tim Peppin	Welsh Local Government Association
Daniel Hurford	Welsh Local Government Association
Neville Rookes	Welsh Local Government Association

<b>Session 11</b>	
Mark Thomas	Merthyr Tydfil County Borough Council
Will McLean	Monmouthshire County Council
Heather Delonnette	Powys County Council
<b>Session 12</b>	
John Cook	Brecon Beacons National Park Authority
Clare Parsons	Brecon Beacons National Park Authority
Nick Capaldi	Arts Council of Wales
Steven Flather	Mid and West Wales Fire and Rescue Service
<b>Session 13</b>	
Tracey Cooper	Public Health Wales
Su Mably	Public Health Wales
Trevor Purt	Betsi Cadwaladr University Health Board
Andrew Davies	Abertawe Bro Morgannwg University Health Board
<b>23 OCTOBER</b>	
<b>Session 14</b>	
Carl Sargeant AM	Minister for Natural Resources
Amelia John	Welsh Government
Andrew Charles	Welsh Government
Sioned Rees	Welsh Government
Louise Gibson	Welsh Government
Amina Rix	Welsh Government