

# WEAll Scotland response to the consultation on a Wellbeing and Sustainable Development Bill

February 2024

## Overview: How the parts of the Bill fit together

The aim of the Bill is to create a clear and shared narrative of progress for Scotland, along with an overarching structure for decision making and accountability, that enables public bodies and other organisations to work together collaboratively and coherently towards that narrative. This could trigger a step change that ensures sustainable development and wellbeing become the unequivocal drivers of policy and practice across public life in Scotland, making Scotland a world leader in this important area.

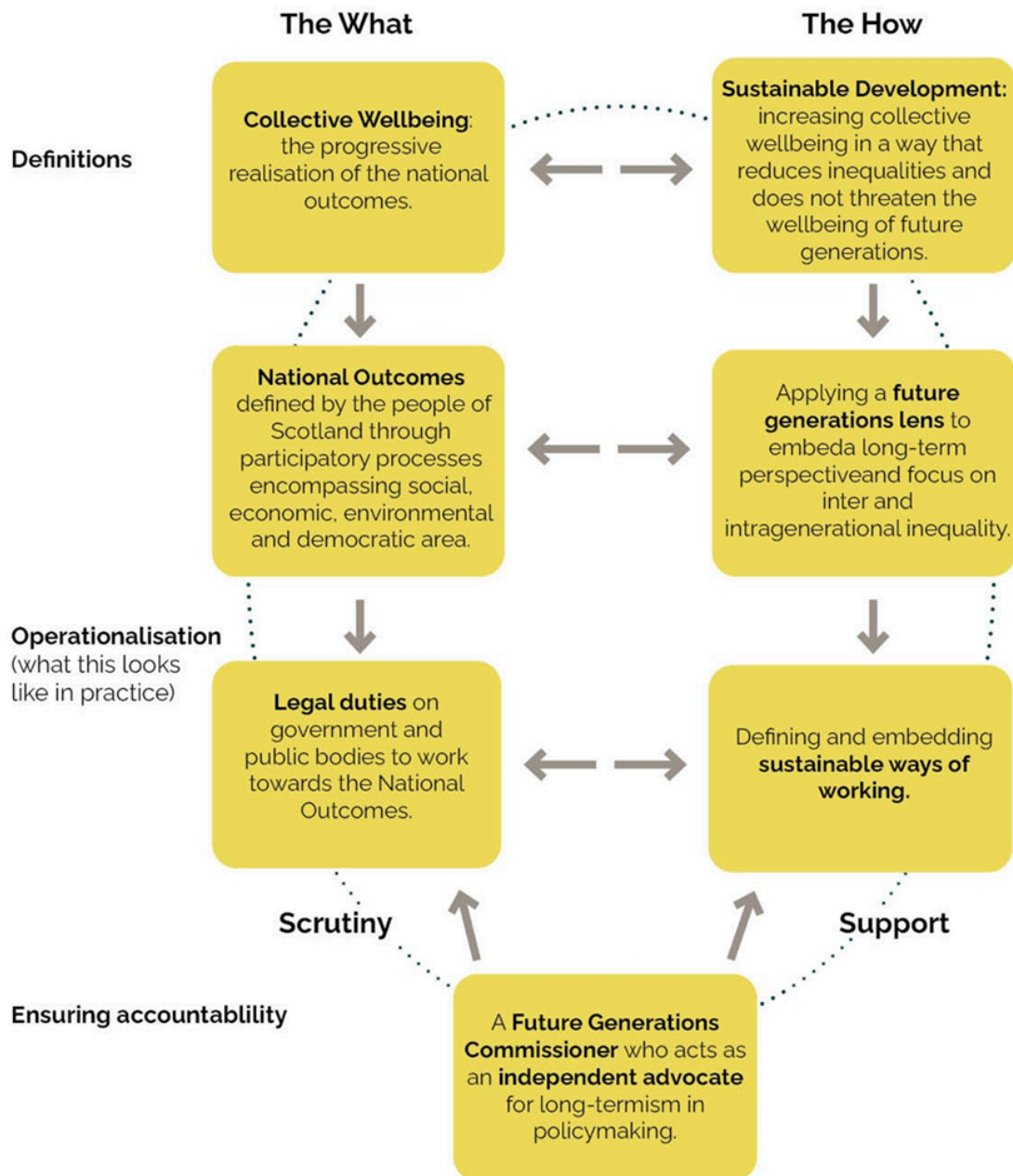
In a world characterised by urgent social and environmental challenges, and ever more frequent crises, such a narrative and structure is essential to enable effective government and societal responses and to use them to enhance our collective wellbeing. While some elements of such a structure already exist, progress is currently hampered by the lack of clear definitions and competing frameworks and goals.

In order to make such a decision making structure effective requires a number of interacting and supporting elements, which are reflected in the different sections of the consultation and the Bill. All of these elements are important in their own right, but the Bill will only be successful if they work together. Missing out on any one of the elements will weaken the effectiveness and coherence of decision making that is the goal of the Bill.

The graphic below provides an overview of the different elements of the Bill and how they fit together.

**Definitions of collective wellbeing and sustainable development** are key for setting clear overarching goals that we want to achieve as a society. Both of these concepts are already used in legislation in Scotland, but they are not defined clearly which prevents their effective implementation. The two concepts are overlapping and complementary, with collective wellbeing setting out what we want to achieve to enable everyone to have a good life and sustainable development emphasising the need to work towards

these goals in a way that is collaborative, coherent, increases equity and considers the interests of future generations, people elsewhere and not just in Scotland, and planet.



The **National Outcomes**, as currently set out in the National Performance Framework, set out in more detail what outcomes we want to achieve to realise the ambition of collective wellbeing in Scotland. They are also supposed to be Scotland’s delivery mechanism for the UN Sustainable Development Goals (SDGs).

The National Outcomes come with **legal duties for public bodies** to work towards these outcomes aimed to achieve consistent implementation. But the existing duties

are too weak to establish the National Outcomes as key drivers of decision making and the outcomes are currently not based on a strong participatory process. The duties are also not streamlined with other duties creating a complicated, and sometimes contradictory, landscape of duties for public bodies. A key goal of the Bill is to strengthen and streamline duties to promote the National Outcomes and to ensure that the outcomes are developed in a more democratic way.

Setting outcomes and duties on its own will not be enough. To achieve collective wellbeing in a way that is sustainable requires a **future generations approach** and **different ways of working** for public bodies and beyond. We need to learn to work in a way that is based on long-term thinking, that is collaborative and reaches across silos, that can effectively resolve trade-offs and deal with complexity, and that considers our impacts in other parts of the world. The Bill seeks to aid such a transformation by setting out high level ways of working in legislation and which should then be accompanied with more comprehensive support, training and toolkits for implementation.

The final piece of the puzzle is a **Future Generations Commissioner**, an independent institution that can provide practical support to decision makers in implementing the National Outcomes and sustainable ways of working but also hold them accountable if necessary. There is currently no institution in Scotland that has the remit and capacity to take a helicopter view, offer a longer-term perspective, and make sure that we are working effectively together towards our goals. Without this independent advice and scrutiny the Bill will fail to achieve its full potential for transformation.

## Part 1 - Defining wellbeing

### 1. Is a statutory definition of 'wellbeing' required?

Yes

### 2. Do you have any views on how 'wellbeing' can be clearly defined in legislation?

#### Key points

- A legal definition of wellbeing is vital in order to provide greater clarity and specificity around public sector duties and thus help to improve accountability. It is also important for setting out the overarching goals we expect the government to deliver.

- It is important that the definition of wellbeing is complementary and overlapping with the definition of sustainable development to avoid any potential conflicts.
- A definition should also be built on the principles of equity, long-termism and citizen engagement.

## Our proposed definition

We propose the following definition: ‘Collective wellbeing is the progressive realisation of social, economic, environmental and democratic outcomes which enable people to meet their needs, as identified through working with the people of Scotland, pursued in a way that reduces inequalities in wellbeing between different groups. It also recognises the importance of protecting the interests and needs of future generations and fostering intergenerational equity in Scotland and globally.’

## Response

We consider that a legal definition of wellbeing is important in order to create a consistent narrative of progress in Scotland. A legal definition would also be helpful to provide greater clarity and specificity around public sector duties and thus help to improve accountability.

There are several elements that we think are important when creating a definition of wellbeing and these have shaped the definition we have proposed above.

- We consider it most useful and relevant to specifically define ‘collective wellbeing’ in the legislation as we consider this the subject of public policy rather than individual wellbeing.
- It is important that collective wellbeing takes a holistic approach and considers social, environmental, economic and democratic aspects.
- It is important that the definition makes explicit that increasing collective wellbeing is just as much about reducing inequalities between different groups as it is about increasing average outcomes for the population as a whole.
- It is important that wellbeing, while focused on Scotland, takes into account the impacts on future generations and people living outside of Scotland.
- It is important that the definition is complementary and overlapping with the definition for sustainable development in a way that does not create any conflicts or confusion. We therefore included a reference to ‘needs’ as these are likely the basis of the sustainable development definition, and also reiterated the need to protect the interests of future generations and people living outside of Scotland.

Finally, we consider that understanding wellbeing does not stop with a definition and it is important to locate it in time and place. In order for the Bill to become truly effective in setting a shared narrative and goals and inspiring collaborative and joined-up working towards these goals will require that the narrative and goals are developed in a truly democratic, participatory fashion. That means governments engaging people in a conversation about what matters to them, and using this to inform the development of wellbeing goals. It is critical that such engagement has depth and breadth, and includes diverse voices, especially of those who are further away from policy making processes. This, in turn, must be seen to have a tangible influence on decision making.

In order for the Bill to fully realise its transformative potential, this spirit of participation and shared creation needs to be woven into every aspect of the Bill:

- The definition of collective wellbeing that we propose includes the qualification 'as identified through consultation with the people of Scotland' - which requires engagement to identify the outcomes that matter to the people of Scotland at this particular time, and regularly into the future (see above).
- Strengthened duties on Scottish Ministers and with regard to the National Outcomes should enhance the public participation requirements when revising the National Outcomes (see response to Question 11).
- Participation should become one of the key 'ways of working' defined in the legislation to ensure coherent support and guidance for implementation (see response to Question 14).
- Ensuring a meaningful participatory conversation on the definition and implementation of wellbeing and sustainable development in Scotland is an important part of the accountability required to make the Bill work and should be part of the remit of the Future Generations Commissioner (see response to Question 18).

## Part 2 - Defining sustainable development

### 3. Is a statutory definition of 'sustainable development' required?

Yes

4. Do you agree with our proposal that any definition of sustainable development should be aligned with the common definition: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”?

No

5. Do you have other views on how ‘sustainable development’ can be clearly defined in legislation?

### Key points

- Given that there are already a number of references to sustainable development in existing legislation<sup>1</sup>, a clear and rigorous definition is required in order to provide consistency and clarity and to support accountability.
- The definition should explicitly address:
  - the impact of our decisions beyond Scotland’s borders,
  - the link between present and future generations,
  - the need for any development to be equitable, and
  - the need for wellbeing and equity within current generations.
- A definition of sustainable development should be accompanied by a definition of ‘policy coherence for sustainable development’ to ensure that sustainable development is pursued coherently across policy areas.

### Our proposed definition:

- ‘Sustainable Development can be defined as development based on sustainable and equitable use of resources within the context of planetary boundaries, and which supports the capability of present and future generations across the world to meet their needs.’

### Response

We consider it important to include a definition of sustainable development in the Bill in order to create a shared narrative and understanding of the kind of development we want to pursue in Scotland. In addition, there are already a number of existing references to sustainable development and sustainability in legislation, but the lack of a clear definition is impeding their effectiveness. A clear and rigorous definition is needed to improve consistency and support accountability.

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<sup>1</sup> Scotland’s International Development Alliance, 2021. [Towards a Wellbeing and Sustainable Development \(Scotland\) Bill](#).

## Definition

We believe that the Brundtland definition proposed in Question 4 is a good starting point, and it has the advantage of being well recognised internationally, forming the foundation of the [UN work on Sustainable Development](#). However, it does not show how our understanding of sustainable development has developed since its publication. We have, therefore, proposed our own definition which maintains the core structure of the Brundtland definition but modifies to include some key concerns:

- A well-established shortcoming of the Brundtland definition is the lack of reference to equity. It does not make clear that sustainable development needs to enable all people of current and future generations to meet their needs in a way that is equitable and recognises differences in the responsibility for environmental damage and in the capability to deal with these at present.
- The Brundtland definition was developed to apply at a global level. To tailor for a national application in Scotland, we consider it important to include a specific reference to the rest of the world, to make clear that sustainable development in Scotland cannot be achieved without consideration of sustainable development across the world.
- The planetary boundaries framework is now well established as a robust way of setting out the environmentally sustainable development space for humanity. Continuously crossing these boundaries will create a considerable risk that large parts of future generations will not be able to meet their needs. Planetary boundaries were not defined at the time the Brundtland definition was developed. We therefore consider it useful to include a specific reference to planetary boundaries to make the conditions for sustainable development as explicit and robust as possible.

## Principles

In order to aid a consistent implementation, the definition of sustainable development in the Bill should be accompanied by specifying the following principles:

- The principle of enhancing ecological and planetary systems through regenerative approaches.
- The principle of intra- and inter-generational equality and equity – to meet the needs of present generations without compromising the ability of future generations to meet their needs.
- The principle of placing (human or social-ecological) wellbeing instead of economic growth as the core societal objective.
- The principle of interdependence and indivisibility across public policy, meaning that policies are inextricably linked and require policy coherence for sustainable development in response.
- The principle of doing no harm internationally and good global citizenship.
- The principle of evidence-based policymaking.

- The principle of openness and transparency – the availability of information on efforts to achieve sustainable development is vital to engagement and accountability.
- The principle of participation – to recognise that everyone in society has a role to play in working together to achieve sustainable development.

### Policy coherence

We consider that any effort to define and embed sustainable development as a key principle in Scotland will only be successful if it is combined with a clear mandate for policy coherence.

In order to ensure that domestic and international policy coherence for sustainable development is understood and implemented as a core principle of sustainable development we also propose it should be clearly defined. The definition should consider the following :

Policy coherence is the consistency of public policy, whereby:

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

## 6. What future wellbeing issues or challenges do you think legislation could help ensure we address?

### Key points

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



## Response

We believe that the Bill has the potential to help Scotland tackle a wide range of wellbeing issues and challenges. Putting in place clear and shared goals, alongside a joined up policy process, will be crucial to address the root causes of the multiple social and environmental challenges our societies face. Important issues that we think the Bill needs to address are:

- **Invest in prevention and reducing inequalities:** By actively considering issues and their long-term impact this legislation provides an opportunity to put primary prevention at the heart of the decision making process. Primary prevention means investing to stop problems occurring in the first place. This is the most cost effective way of protecting the health, economic and social wellbeing of current and future generations and for reducing inequalities. It will require culture change and more joined up, cross-government working to ensure that all public policies and agencies are enabled to ensure they deliver the best results for current and future communities, focusing on the building blocks of community wellbeing for all. Guidance should be developed to help public bodies implement such a preventative approach.
- **Strengthen accountability for sustainable development through a Future Generations Commissioner:** The Bill should create an independent Commissioner and knowledge exchange network to support public bodies to work towards sustainable development and wellbeing goals across their policy remits, monitor progress in setting realistic and achievable objectives, and review their outcomes. This will also require new and better data to measure wellbeing and sustainable development progress.
- **Tackling the nature and climate crisis:** To ensure the Scottish Government does not contribute to making our planet uninhabitable through irreversible biodiversity loss and climate chaos, leave anyone behind, or lose sight of what is important in terms of our own individual and collective wellbeing, it is vital that we find a way to work together in a joined up and systematic way across the whole of society, and especially in government.
- **Enhance and restore trust in democracy:** Trust in government is declining, both locally and globally, with democracy increasingly being perceived as fragile and debates becoming more polarised. By weaving new participatory and deliberative democratic processes through the political process in Scotland, from defining a shared vision to involving people in accountability, the Bill can help restore trust. It contributes to building a system that has the skills, places and spaces to tackle complex societal issues through dialogue, deliberation and design without being adversarial.
- **Contributing to global justice:** This Bill could avoid negative and pursue positive social, economic, and environmental impacts not only on people in Scotland but also on the lives and livelihoods of people elsewhere, particularly in 'majority

world' and low income countries. Acknowledging and responding to our current and historical role in creating global inequality between and within countries is vital. This will require active procedures that ensure access to information, public participation, and access to justice in decision making.

- **Tackling the cost of living crisis and poverty:** With global poverty on the rise once more, the global crises resulting from the ongoing impacts of the COVID-19 pandemic have laid bare the social and economic determinants of public health. Using and building upon existing frameworks, like the SDGs, to ensure a more resilient future is vital.
- **Efficiency towards achieving Sustainable Development Goals:** The legislation should ensure that all public bodies are working towards all of the outcomes, not just a select few, recognising their interconnectedness and synergies. The legislation would assist in setting objectives towards achieving all the SDGs, and the linked National Outcomes, equally and ensuring that doing so impacts positively on communities and people's wellbeing and the environment here in Scotland and globally. It would also ensure readability between the SDGs and the National Performance Framework to measure progress.

**7. We are aware that the term 'sustainable development' has been set out in various legislation of the Scottish Parliament since devolution in 1999, and that careful consideration will need to be given to how any new definition will impact on these. What impact, if any, would the proposed definition have on other areas of legislation?**

### Key points

- Having a clear definition of 'sustainable development' does not necessarily mean introducing a new duty or concept, but rather properly defining what is already in place across other legislation, in order to improve delivery.
- In particular, the Bill could strengthen the existing duty in the Climate Change (Scotland) Act 2009 which requires all Scottish public bodies to, in exercising their functions, act in the way they consider 'most sustainable'.

### Response

We believe that introducing a definition of sustainable development will help improve clarity and delivery of those pieces of legislation that already refer to the context but do not define it.

In particular, the Bill could strengthen the existing duty in the Climate Change (Scotland) Act 2009 which requires all Scottish public bodies to, in exercising their functions, act in the way they consider 'most sustainable'. This existing duty has been shown to be not well-implemented, possibly due to the wording of the Act and a lack of parallel capacity building, support and accountability requirements.

For example, in some cases, public bodies may find duties conflict, based on their founding legislation. One such example might be the economic growth imperative for Scottish Enterprise, set out in the Enterprise and New Towns (Scotland) Act 1990. Hence, provisions should be made to resolve any conflicts. This could be pursued on a case-by-case basis, especially where there are prominent conflicts. More recently established organisations, like Highlands and Islands Enterprise and South of Scotland Enterprise, have taken a more balanced approach to consider the role of the community in economic development.

Community Wealth Building is an important strategy for working towards wellbeing and sustainable development. Therefore, it is important that the upcoming legislation on Community Wealth Building is formulated in a way that aligns well with the overarching goals of wellbeing and sustainable development and the provisions planned for the Wellbeing and Sustainable Development Bill.

More details on how the definition of sustainable development might impact other areas of legislation can be found in the report [Towards a Wellbeing and Sustainable Development \(Scotland\) Bill](#) published by Scotland's International Development Alliance.

## Part 3 - Strengthening duties for the National Outcomes and sustainable development

### 8. How could a legal duty be defined to ensure that public authorities uphold sustainable development and the interests of future generations?

#### Key points

- The existing duty on public authorities to 'have regard to the National Outcomes' in the Community Empowerment (Scotland) Act 2015 is not strong enough to deliver their ambition.
- As such, the duty should be amended to use more tangible, directional and affirmative language relating to the delivery of the National Outcomes,

wellbeing and sustainable development. This would help empower public authorities to take account of, and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes.

## Proposed definition

We propose to rephrase the duty so that public authorities are required to ‘promote and deliver sustainable development while protecting the wellbeing of current and future generations ensuring that they take all reasonable steps to support the realisation of the National Outcomes, minimise trade-offs, and resolve policy conflicts in a way that does not undermine sustainable development or the wellbeing of current and future generations.’

## Response

We consider it important that the Bill strengthens the duties on public bodies and the Scottish Government to deliver on the National Outcomes, as outlined in our proposed definition of a duty above. However, we think it is important, and possible, to do this in a way that empowers duty bearers to explore and prioritise new ways of working towards a shared agenda, without adding unnecessary extra reporting requirements.

## Implications for the National Outcomes

The National Outcomes, currently set out in the National Performance Framework, are the key to translating the overarching goals of sustainable development and wellbeing into concrete outcomes for Scotland. Recent evidence suggests that the existing duty on public authorities to ‘have regard to the National Outcomes’ in the Community Empowerment (Scotland) Act 2015 is not strong enough to deliver their ambition (Finance and Public Administration Committee, 2022. [Report on the National Performance Framework: Ambitions into Action](#). Scottish Parliament).

These duties, in Part 1 of the Community Empowerment (Scotland) Act 2015, should therefore be relocated into the Wellbeing and Sustainable Development Bill, and be amended in order to support a more unified approach to delivering the National Outcomes and to support greater clarity over the contribution made by different actors towards the delivery of all of the National Outcomes, as a complete wellbeing framework, rather than particular National Outcomes in isolation.

To do this, requires the duty to use more tangible, directional and affirmative language. One approach might be to adopt similar wording to the Wellbeing of Future Generations (Wales) Act 2015 which requires each public body ‘to carry out sustainable development,’ and includes requirements for ‘setting and publishing objectives [in relation to the wellbeing goals]’ and ‘taking all reasonable steps to meet those objectives.’ However, it could be argued that even this wording is not strong

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enough, and does not emphasise the need to ensure policy coherence in pursuit of the National Outcomes, wellbeing and sustainable development.

To help narrow the well documented implementation gap in the delivery of the National Outcomes, the Bill could provide additional requirements for public authorities to 'regularly publish how they contribute to each of the National Outcomes' and 'set out how they support a coherent approach to delivering sustainable development and wellbeing' as defined in the Bill.

It is important that the duties make clear that wellbeing and sustainable development, as expressed in the National Outcomes, become the overarching framework for all policy making in Scotland, effectively sitting above other existing duties and frameworks. The new duties should, therefore, be accompanied by a review and streamlining of existing duties, frameworks and reporting requirements to make sure that they are aligned with wellbeing and sustainable development, and eliminate any unnecessary duplication.

In addition, guidance and support needs to be put in place to public authorities to help achieve such streamlining of duties and reporting and to ensure meaningful engagement with the National Outcomes. This should be provided by a Commissioner, as discussed later.

### **Implications for sustainable development**

In the case of sustainable development, this could mean strengthening existing duties in other legislation, where sustainable development duties already exist, such as the Climate Change Act 2009, as previously mentioned. This Act requires all Scottish public authorities to, in exercising their functions, act in the way they consider 'most sustainable'. However, research from Scotland's International Development Alliance, shows that this duty does not appear to be well implemented, possibly due to the wording of the Act and a lack of parallel capacity building, support and accountability requirements ( Scotland's International Development Alliance, 2021. [Towards a Wellbeing and Sustainable Development \(Scotland\) Bill](#). p.27).

Public authorities would be better able to mainstream sustainable development, as defined in the Wellbeing and Sustainable Development Bill, by amending Section 44 of the Climate Change Act 2009 to include references to 'sustainable development' and a new clause which serves to resolve existing conflicts in public authorities' statutory duties. For example, a clause after 44(1), stating that 'where the implementation of any other statutory duty appears to conflict with 44(1)(c), a transparent resolution must be sought with regard to policy coherence for sustainable development as defined in the Wellbeing and Sustainable Development (Scotland) Act 202X'.

## 9. Are there specific areas of decision making that should be included or excluded from the Bill?

### Key point

- Excluding different areas of decision making from the Bill would threaten the coherence and clarity of the legislation and impede effective implementation.

### Response

We consider that the purpose of the Bill is to define wellbeing and sustainable development, as expressed in the National Outcomes, as overarching goals of decision making in Scotland and to create the necessary institutions and processes that allow decision makers to pursue these goals in a joined up and holistic manner. It is therefore important that the Bill covers all areas of decision making.

Moreover, excluding certain areas of decision making would undermine the holistic definitions of both sustainable development and wellbeing as laid out in our response and the corresponding need to achieve better policy coherence across government in pursuit of wellbeing and sustainable development and the National Outcomes.

## 10. What issues, if any, may result from strengthening the requirement to have regard to National Outcomes?

### Key points

- It is important to accompany strengthened duties with a comprehensive support ecosystem to aid public authorities in implementation, emphasising the 'how' and making it possible to track progress.
- The other parts of the proposed Bill are an important part of this support ecosystem, including clear definitions, ways of working and a Future Generations Commissioner that can hold public authorities accountable, provide support and build capacity.

### Response

One of the potential challenges of making the Bill effective is the additional strain it might put on the stretched capacity of the public bodies subject to the strengthened duties proposed in the Bill. However, it is important that the Bill does bring about changes to how public bodies see the National Outcomes, sustainable development and wellbeing. In this sense, the Bill should seek to embed new ways of working, thinking and reporting by public bodies in Scotland that empower public bodies and

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the government to pursue more joined up processes towards the goals of wellbeing and sustainable development. While these changes are crucial, they will not be achieved if duties are not accompanied with the relevant support, training and guidance for public bodies, and a streamlined environment of duties and reporting requirements. In short, the duties in the Bill cannot become another tick-box exercise putting additional strains on public bodies, without empowering them to do their job more effectively.

It is, therefore, important that the duties make clear that wellbeing and sustainable development, as expressed in the National Outcomes, become the overarching framework for all policy making in Scotland effectively sitting above other existing duties and frameworks. The new duties should therefore be accompanied by a review and streamlining of existing duties, frameworks and reporting requirements to make sure that they are aligned with wellbeing and sustainable development, and eliminate any unnecessary duplication or duties and reporting requirements that do not serve these goals.

Overall, it is important that the Bill goes beyond simply imposing duties and puts in place a support ecosystem built on the other parts of the legislation working together.

This includes:

- Defining wellbeing and sustainable development to clearly set out the ultimate outcomes and priorities that are being sought in a way that is clear.
- Providing guidance on how to resolve trade-offs with existing duties or between different National Outcomes by establishing a clear definition of policy coherence for sustainable development.
- Providing guidance on how the new duties interact with, supersede or complement existing duties and reporting requirements.
- Defining ways of working to establish a coherent approach to pursuing the duties and outcomes set in the Bill, supported by detailed guidance on how to implement those ways of working in different contexts.
- Creating an independent Future Generations Commissioner with the capacity to offer support to public bodies, to build capacity, to provide scrutiny and to provide a forum for sharing learning across the public sector.

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

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

## Part 4 - Clarifying to whom the duties should apply

### 11. Should any duty apply to the Scottish Government?

#### Key points

- It is important that duties apply to the Scottish Government as well as public bodies.
- The Bill should build on, and strengthen, current duties on Scottish Ministers to take account of, and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes.
- These duties should include requirements for the Scottish Government to report more regularly, at least biennially, and to publish delivery plans for how they will work towards the National Outcomes.
- Duties on the Scottish Government should help ensure that the National Outcomes, and broader National Wellbeing Framework in which they sit, becomes a roadmap, rather than a vision, for the Scotland we want to see.

#### Response

We believe that it is crucial for the success of the Bill that it applies to the Scottish Government as well as public bodies. The aim of the Bill is to inspire a change in thinking and working throughout public life in Scotland, and this needs to be led by example by the Scottish Government.

It is important that the Bill should build on and strengthen current duties on Scottish Ministers to take account and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes.

In order to make the sustainable development, wellbeing and the National Outcomes a key driver of decision making, we propose the following strengthened duties on Scottish Ministers with regard to the National Outcomes.

Firstly, the Bill should provide more time for the Scottish Parliament to scrutinise draft versions of the National Outcomes.



- In 2018, the Convenor of the Lead Scottish Parliament Committee said, due to a shortage of time (only 40 days), the Committee was ‘unable to give any consideration to other Committees’ responses’ and issued a ‘plea for more scrutiny time in the future.’

Secondly, reporting requirements on the delivery of the National Outcomes should be strengthened:

- Currently, Ministers ‘must prepare and publish reports about the extent to which National Outcomes have been achieved.’ However, reports must only be prepared and published ‘at such times as the Scottish Ministers consider appropriate.’ Improving the frequency and quality of reporting on National Outcomes would enhance accountability and boost the status of the outcomes within decision making. For example, in relation to the Child Poverty (Scotland) Act 2017, Scottish Ministers must prepare annual progress reports, detailing progress: (a) towards meeting the child poverty targets, and (b) in implementing the relevant delivery plan.

Thirdly, Ministers should be required to produce a framework for the delivery/implementation of National Outcomes.

- This could involve time-bound delivery plans for each National Outcome that follow the same five year life cycle as the National outcomes themselves, including clarity over the policy and spending decisions taken to support their implementation, and enhanced clarity over the timescales for delivering specified progress.
- Such an approach could echo the delivery plan requirements within the Climate Change (Scotland) Act 2009 and the Child Poverty (Scotland) Act 2017. For example, in relation to the latter, Scottish Ministers must set out: the measures they propose to take during the period of the plan for the purpose of meeting the child poverty target; an assessment of the contribution the proposed measures are expected to make; an explanation of how that assessment has been arrived at, and; an assessment of the financial resources required to fund the proposed measures. The Bill should adopt a similar approach to drive ongoing progress towards the National Outcomes.

Fourthly, the Bill should strengthen the requirement to set the National Outcomes based on meaningful participatory processes.

- The Bill should significantly strengthen the existing consultation requirements on Scottish Ministers when they set new, or revise existing, National Outcomes. The existing Community Empowerment (Scotland) Act 2015 requires Scottish Ministers to review the National Outcomes every five years and to consult ‘such persons who appear to them to represent the interests of communities in

Scotland' and 'such other persons as they consider appropriate' have led to insufficiently narrow consultation processes.

- The Bill should increase the statutory public engagement requirements. It is critical that citizen engagement has depth and breadth, that it represents a diversity of voices including those who are further away from the policy making process, like carers, minoritised ethnic groups and people on low incomes, and that this engagement has a tangible influence on decision making.

## 12. Do you have any views on the range and type of organisations that any duty should apply to?

The purpose of the Bill is to define wellbeing and sustainable development, as expressed in the National Outcomes, as overarching goals of decision making in Scotland, so it is important the duty should apply across all public bodies in Scotland including Scottish Ministers and Community Planning Partnerships and other bodies funded by the public purse.

## Part 5 - Defining ways of working

## 13. Do you have any views on how we can better report the achievement of wellbeing objectives which supports clear accountability and scrutiny of public bodies in Scotland?

### Key points

- To enable stronger accountability Ministers should be required to report more regularly on progress towards the National Outcomes to parliament, and parliament should be giving ample time to scrutinise these reports.
- In addition, government reporting should be complemented by an institution capable of providing independent assessments of Scotland's progress towards wellbeing and sustainable development. Our preferred option for this would be a Future Generations Commissioner.

### Response

We agree that it is important to establish better ways of reporting progress against the achievement of wellbeing outcomes and sustainable development, as captured in the National Outcomes, in order to aid accountability and learning. We propose a combination of different ways in which this can be achieved.

Firstly, as set out in our answer to Question 11, Ministers should be required to report more regularly on the progress towards the National Outcomes to parliament. And parliament should be given ample time to scrutinise these reports. We suggest that such reports should be made at least biannually. We consider that such reporting to parliament constitutes the minimum level of scrutiny provided by parliament. In other countries dedicated parliamentary committees play an important role in reporting against achievement of wellbeing outcomes and the Sustainable Development Goals. Even though the Bill cannot establish such committees, such options should be explored further (more details can be found in the answer to Question 19).

Secondly, we consider it important to complement government reporting with an institution capable of providing independent assessments of Scotland's progress towards wellbeing and sustainability development, including a capability to apply strategic foresight. For example, this could take the shape of regular reports setting out historic progress against the National Outcomes, accompanied by regular reports based on strategic foresight exercising setting out future challenges related to wellbeing and sustainable development. Such reports could be used in a similar way to the reports produced by the Scottish Fiscal Commission on fiscal matters. Our preferred option for providing this type of scrutiny would be the establishment of a Future Generations Commissioner (see Question 17).

The current set of indicators associated with the National Performance Framework and the Wellbeing Economy Monitor can provide a good starting point for this kind of reporting. However, the reporting needs to be made more coherent and digestible, including more timely data.

## 14. What additional steps are needed to ensure collaboration and working across boundaries?

### Key points

- Defining 'policy coherence for sustainable development' is key for ensuring a coherent approach to policy making in Scotland.
- Further defining some high-level 'ways of working' in the legislation would help public bodies to implement the strengthened duties and support a coherent and collaborative implementation across the public sector in Scotland.
- These high-level 'ways of working' should be supported by more detailed guidance.

## Our proposed 'ways of working'

- **openness:** enabling engagement and accountability through openness and transparency
- **participation:** recognising that everyone in society has a role to play and actively engaging quiet voices that often go unheard
- **integration:** achieving policy coherence for sustainable development by aligning public bodies' efforts, collaborating and committing to shared learning
- **long-term:** balancing the needs of today with those of future generations
- **global citizenship:** considering the impact of our decisions and doing no harm internationally
- **prevention:** focusing on early action rather than just reacting to problems
- **evidence-based:** making decisions based on the best evidence available
- **equitable:** making decisions in a way that reduces inequalities between different groups of people and considers impacts on future generations

## Response

Even if the Bill is mostly aimed at strengthening existing duties, it will be vital that public bodies are given clear guidance, sufficient support and the necessary tools in order to implement them.

We believe that the definition of 'ways of working' has to be a key part of this support, and has been one of the key drivers of success of the Future Generations (Wales) Act 2015. It would, therefore, be beneficial to define a small number of core ways of working in the legislation, but complement these with more detailed guidance and support in other formats. Setting out those core ways of working will help public bodies to adhere to the new duties, it will help to streamline new duties with existing ones and it will ensure coherence in how the new duties will be implemented across Scotland.

We believe that a combination of defining ways of working in legislation and more detailed non-legislative guidance will be the most effective combination to allow both for stability and flexibility to them over time. We believe that the ways of working will be less effective if they are solely set out in guidance, because there is a risk that they will be changed too frequently and/or not seen as binding.

The proposed Future Generations Commissioner can play an important role in providing the support including the development of more detailed guidance on the ways of working. Public bodies can also be supported around implementation through the provision of impact assessment tools and toolkits. Scotland's Adaptation Capability Framework is useful for what might be needed in terms of support for public bodies to

implement specific duties, including 'understanding the challenge'. However, it may be worth considering how a bespoke Scottish toolkit will combine support to implement specific aspects of duties with the broader implementation of wellbeing and policy coherence for sustainable development. There are already toolkits on the latter available.

The ways of working we propose above reflect the key principles that we consider to be important for effective working towards wellbeing and sustainable development. They reflect the recommendations by the [Christie Commission](#) and [Scotland's International Development Alliance](#), as well as drawing on the ways of working defined in the Welsh Wellbeing of Future Generations (Wales) Act 2015.

### 15. Do you have any views on whether any duty related to ways of working could create conflicts with duties currently placed on you?

Not applicable

### 16. Do you have any views on the additional resource implications necessary to discharge any wellbeing duty in your organisation?

Not applicable

## Part 6 - Determining an approach for future generations

### 17. Should Scotland establish an independent Commissioner for Future Generations?

Yes

### 18. In what ways could an independent Commissioner for Future Generations increase the accountability, scrutiny, and support for decision making?

#### Key points

The key roles of the Commissioner would be:

- to provide a visible, institutional base within Scottish public life for activity to promote issues of wellbeing and sustainable development for present and future generations

- to support evidence-based systemic change around activity for wellbeing and sustainable development across Scottish public bodies by providing advice on policies and practical support to decision makers and public bodies as well as encouraging best practice and collaborative working
- to improve and ensure accountability around the duties in the Act
- to represent the interests of future generations in the Scottish political system and work with the Deputy First Minister to ensure policy coherence
- to provide an anchor for participatory processes, build broader public buy-in and consensus around the path towards wellbeing and sustainable development
- to build capability in the application of strategic foresight and linking to the National Outcomes and enhanced participation

## Response

There are a number of key roles related to accountability, support and promotion that need to be fulfilled in order to make the Bill reach its full transformative potential. We consider that a Future Generations Commissioner is the best way to fulfil most (but not necessarily all) of those roles. We consider that these roles are:

- to improve and ensure accountability around the duties in the Bill
- to provide a visible, institutional base within Scottish public life for activity to promote issues of wellbeing and sustainable development for present and future generations
- to provide an anchor for participatory processes and build broader public buy-in and consensus around the path towards wellbeing and sustainable development
- to build capability in the application of strategic foresight, linking it to the National Outcomes and enhanced citizen participation
- to support systemic change around activity for wellbeing and sustainable development across Scottish public bodies
- to represent the interests of future generations in the Scottish political system and work with the Deputy First Minister to ensure policy coherence

### Accountability

Making the Bill work will require a robust framework of accountability, which a Commissioner would be well placed to steward. In order to create such a framework it is important that the Bill considers the following elements:

- Effective accountability is guaranteed by specifying who is accountable, to whom, in respect of what responsibilities, and with what potential sanction.
- The Bill must consider all these elements, making clear who (potentially all Scottish public bodies) have what responsibilities (e.g. to act or report in ways consonant with wellbeing and sustainable development objectives) to be assessed by the Commissioner through what mechanisms – (e.g. key reports

sent to the Commissioner for approval; Commissioner empowered to demand responses; Commissioner's assessment to be tabled in parliament).

- To ensure support for decision making, the Bill could make it mandatory for key decisions (e.g. laws, budgets) to be presented for consideration by the Commissioner and the assessment and recommendations made public.
- One key question is whether the Commissioner should be given more active, investigative powers (and matching capacity) or whether the accountability role should be more passive – scrutiny activated by a report or decision placed before the Commissioner, say. The strongest Commissioner has the mandate and capacity to investigate, but evidence from other countries suggests the Commissioner must be widely perceived as legitimate for this role to be sustained.
- The Commissioner can also provide an important coordinating role by collaborating and bringing together relevant responsibilities for accountability from other institutions, such as other Commissioners, Audit Scotland or Environmental Standards Scotland and external organisations, such as youth organisations.

### **Wider support and coordination for wellbeing and sustainable development**

In addition to ensuring accountability, there are a number of important, interlinked, roles that need to be performed to make the Bill work and which the Commissioner would be well placed to perform.

Firstly, the concepts of sustainable development and wellbeing are not set in stone and will need to be continuously developed and promoted throughout Scotland. A Commissioner would be well placed to be a focal point and provide thought leadership with regard to the concepts in Scotland. The Commissioner would also have the important role to advocate for the interests of future generations, which are currently not well represented in policy making processes in Scotland.

Secondly, the scale of the complex challenges our societies face in an age of 'polycrisis' demands new forms of policy making and governance that are more anticipatory, agile, adaptive, inclusive and participatory with futures thinking and foresight at their core. A Future Generations Commissioner would be well placed to build capability and support the adoption of such strategic foresight. Such a role would help to build capacity for strategic foresight and futures thinking within and across government and public sector – integrating and embedding foresight in the governance architecture and policy cycle process (including policy analysis and evaluation, engagement and decision making) to build towards a positive future shaped and informed by people's long term concerns. More detailed insights on how foresight can be built into governance and policymaking processes can be found in the report titled [Foresight for](#)

[sustainable development and well-being governance in Wales](#) published by the Welsh Government.

Thirdly, all the work of developing and promoting the concepts of sustainable development, wellbeing and adopting a strategic foresight approach will need to be done in a participatory way to ensure that it resonates with the concerns and wishes of the people in Scotland. For example the Commissioner could review and monitor implementation of legislation in collaboration with people in Scotland, run participatory visioning processes, maintain regular citizen's dialogues on the long-term impacts of our actions or could be accountable to a standing people's panel. Having such a role can join up the dots in linking the National Outcomes to strategic foresight and connecting it into enhanced participation. That then can help to improve the resilience of our democratic institutions, bolster public trust and confidence in government, parliament, leading to a more deliberative and participatory democracy in Scotland and more effective decision making.

Finally, the Commissioner could play an important role to support public bodies with implementing their duties and embedding the ways of working into their day-to-day activities. For example, a Commissioner could advise informally and create resources and toolkits on how to implement long-term thinking, sustainable ways of working and the pursuit of the National Outcomes in an integrated fashion. By working closely with public bodies the Commissioner would be in a good place to build and coordinate governance infrastructure and multi-stakeholder partnerships around wellbeing and sustainable development over time.

### **Further considerations**

In order for the Future Generations Commissioner (or any other institutional setup) to effectively fulfil these roles, it is important that the relationship between wellbeing, sustainable development, and thought around 'future generations' is clearly understood and articulated. Notably, promoting a long-term approach to political decision making and the representation of future generations are important considerations: however, the sustainable development and wellbeing agenda that this Bill should present goes much further.

We propose that the Commissioner should be titled a Future Generations Commissioner because we believe that it is important that the title is short and resonates with the public imagination. However, as outlined above, we propose that the mandate of the Commissioner needs to be wider than just a focus on future generations. If the 'future generations' mandate of a Commissioner is articulated and understood narrowly, the role will not serve to protect and advance the agenda of the Wellbeing and Sustainable Development Bill and solutions to these gaps should be considered.



The effectiveness of the Commissioner is dependent, not just on the mandate bestowed on the Commissioner in the legislation, but also the wider framework established by the Bill, in particular the strength and specificity of definitions and duties.

It is also dependent on effective resourcing so that the Commissioner has the capacity to perform its functions.

Lastly, the Commissioner, though independent, must not be isolated – the role must have public legitimacy and be linked effectively to key elements of the Scottish political system.

## 19. Are there alternative ways we can increase the accountability, scrutiny and support for decision making?

### Key points

- All the roles outlined in our response to Question 18 are important for making the Wellbeing and Sustainable Development Bill work successfully.
- It might be possible to find ways to cover these roles without a new Future Generations Commissioner, but this will require significant changes to institutional structure in other places, as there is currently no other body or collection of bodies in Scotland that could take these roles on easily.
- Any alternative structure will also involve resource demands as the capacity to undertake scrutiny; support and learning resource development; promotion or voice for this agenda, all come with resource implications regardless of the institutional form they take.

### Response

Given the Scottish context already has a number of existing Commissioners, it may be possible to adapt the functions of some of these to cover some elements of wellbeing and sustainable development accountability. However, no existing Commissioner, or patchwork of Commissioners, could do this without (i) significant changes to their remit and (ii) additional resources.

Below we outline some examples of how other countries have approached similar functions. It is important to note, however, that all of these approaches themselves involve resourcing demands. The capacity to undertake scrutiny; support and learning resource development; promotion or voice for this agenda, all come with resource implications regardless of the institutional form they take. Likewise, accountability and

system change must involve the creation or transfer of authority, agency, and capacity within the Scottish political system. How far resource and power are to be put behind the wellbeing and sustainable development agenda, in whatever form, should be a key metric for judging the success of the Bill.

Examples from other countries:

- Many countries with Commissioners do not rely on Commissioners alone to achieve these functions. Advisory Councils and Commissions, and Parliamentary Groups and Committees are widely employed alongside Commissioners or Ombudsmen as part of (present or envisioned) governance ecosystems for wellbeing and sustainable development.
- Certainly, some functions have been approached in other ways in other national contexts. More formal government sustainable development reporting through a formalised parliamentary process can be a method of ensuring accountability. Canada's Sustainable Development Act, for example, obliges government to publish a sustainable development strategy and obliges a Parliamentary Committee to scrutinise that strategy. National audit bodies can also be mandated with accountability duties (e.g. in Belgium, also explored in Wales). Accountability could also be mandated to citizen bodies – e.g. periodic citizens' assemblies or citizen panels.
- A National Advisory Council or Commission, representing a wide spectrum of civil society actors, is tasked in some countries with 'thought leadership' and supporting policymakers. Linking this body formally to the Prime/First Minister is a way to guarantee a role in promoting, establishing and safeguarding wellbeing and sustainable development concerns. With a specific intergenerational lens, giving meaningful authority to a council of younger and older generations could serve a similar purpose of promotion and voice.
- Wellbeing and sustainable development accountability - as well as representation of the interests of future generations – can be enshrined in stronger systems rather than a new body or institution – e.g. improved impact assessment processes and revised cost/benefit analysis that gives greater weight to environment, equity and future people's wellbeing accompanied by increased, specific 'watchdog' responsibilities for relevant bodies. Representation for future generations within political debate could also be achieved through democratic innovations such as citizens' assemblies or revisions to parliamentary procedures.