

# Environment and Sustainability Committee

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Meeting Venue:

**Committee Room 1 – Senedd**

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Meeting date:

**Wednesday, 1 October 2014**

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Meeting time:

**08.50**

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Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



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## Agenda

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**Informal pre-meeting (08:50 – 09:00)**

**1 Introductions, apologies and substitutions**

**2 Inquiry into recycling in Wales: Evidence from the Minister for Natural Resources (09:00 – 10:00) (Pages 1 – 47)**

E&S(4)-22-14 paper 1

Carl Sargeant AM, Minister for Natural Resources

Jasper Roberts, Head of Waste and Resource Efficiency Division

Russell Owens, Head of Collaborative Change Programme

**Break (10:00 – 10:10)**

**3 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence Session 6 (10:10 – 10:50) (Pages 48 – 81)**

E&S(4)-22-14 Paper 2: Auditor General for Wales

E&S(4)-22-14 Paper 3: Wales Audit Office

Huw Vaughan Thomas, Auditor General for Wales

Michael Palmer, Sustainable Development Manager, Wales Audit Office

Mike Usher, Sector Lead, Health and Central Government, Wales Audit Office

Martin Peters, Compliance Manager, Wales Audit Office

## **4 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence**

### **Session 7 (10:50 – 11:50) (Pages 82 – 114)**

E&S(4)-22-14 Paper 4: WWF Cymru

E&S(4)-22-14 Paper 5: Friends of the Earth Cymru

E&S(4)-22-14 Paper 6: RSPB Cymru

E&S(4)-22-14 Paper 7: Wales Environment Link

Anne Meikle, Head of WWF Cymru

Haf Elgar, Campaigner, Friends of the Earth

Peter Jones, Conservation Officer, RSPB

James Byrne, Wildlife Trusts Wales, representing Wales Environment Link

**Break (11:50 – 12:00)**

## **5 The Well-being of Future Generations (Wales) Bill – Stage 1: Evidence**

### **Session 8 (12:00 – 12:30) (Pages 115 – 118)**

Glenn Everett, Deputy Director, Measuring National Well-being Division, Office for National Statistics

E&S(4)-22-14 Paper 8

# Agenda Item 2

## ENVIRONMENT AND SUSTAINABILITY COMMITTEE

### INQUIRY ON RECYCLING IN WALES

#### THE WELSH GOVERNMENT'S EVIDENCE

##### Introduction

The Welsh Government is grateful for the opportunity to provide written evidence to the Committee and to be able to respond to some of the points made by respondents in their evidence.

We will first set out the context of Welsh Government policy regarding recycling before considering the answers to the specific questions. The Welsh Government's policy on recycling aligns with the intention of Welsh Ministers that sustainable development be a cross cutting theme at the heart of policy – to support its statutory duty to promote sustainable development under the Government of Wales Act. The Programme for Government sets the aim for Wales 'To become a "one planet nation", putting sustainable development at the heart of government.' The Welsh Government is using ecological foot-printing as a way to measure if it is meeting its sustainable development commitments, i.e. its One Planet goal. A priority of recycling in Wales is to contribute to climate change mitigation and the reduction of Wales' ecological footprint in terms of reducing overall primary resource consumption. At the same time, recycling is an important element of the drive towards achieving a circular economy for Wales, whereby valuable, and increasingly scarce, materials are kept circulating within the Welsh economy rather than being lost through incineration or landfill. The Ellen MacArthur Foundation has identified that achieving a circular economy could result in annual savings at between £0.9 billion and £1.9 billion to the Welsh economy.

If everyone in the world had the same pattern of consumption as the average Welsh person then three planets worth of resources would be required to meet their needs. Welsh Ministers have set Wales on a path from three to one planet living (thus 'living within our environmental limits'). As laid out in Towards Zero Waste (2010), this includes reducing the consumption of materials, minimising the production of waste and, where it occurs, ensuring that it is reused and recycled. In terms of recycling, Towards Zero Waste stipulates that, by the year 2025, the recycling rate across all economic sectors of the Welsh economy must be 70%. Wales is working towards 100% recycling by 2050. Towards Zero Waste requires that this recycling should all be 'closed loop' or 'up-cycling', thus contributing towards the achievement of a circular economy. 'Closed loop' is recycling where materials are being used continually for the same purpose, for example a glass bottle recycled into a new glass product rather than downgraded (for example being used as aggregate). 'Up-cycling' is recycling that adds value (e.g. enhances greenhouse gas benefits – as in using waste newspapers to make insulation products).

Welsh Government policy on recycling therefore starts with the objective of achieving the greatest reduction possible in ecological footprint in order to help achieve the one planet resource use goal and deliver a circular economy in Wales. Welsh Government policies in this regard are entirely consistent with EU legislation and

policy goals, in particular the EU's Roadmap to a Resource Efficient Europe and the Seventh Environmental Action Programme.

***Explore reasons for and impacts of variations in local authority household waste recycling practice in Wales.***

Evidence for the reasons for, and impact of, variation in local authority recycling services has been provided by a number of respondents. There are a number of reasons for variation, including historical precedent, available technologies and assessments by local authorities regarding the approaches that they believe will best suit their areas. These assessments will reflect the local authority imperatives to meet targets rather than, necessarily, to deliver broader Welsh Government policy objectives, including optimal ecological footprint reduction and other sustainable development goals.

The Local Authority Recycling Advisory Committee (LARAC) has commented: *“LARAC believes the quality of material should be determined by the requirements of the reprocessors.”*

This is only true where the re-processors are contributing to **high quality recycling** - consistent with the strategies and laws of the European Union. Different reprocessors operate to different environmental and commercial standards. However one feature of a variation in recycling practice is a consequent lack of consistency in the presentation of materials to re-processors – and the consequent environmental and economic implications.

LARAC also contends that local circumstances mean that the Blueprint approach cannot apply universally:

*“The fact that collection systems not aligned to the Blueprint are delivering high levels of material that have end markets shows that local circumstances need to influence collection systems.”*

It is true that some collection services that are not aligned with the Blueprint do report high recycling rates. However, the Collections Blueprint was developed to advise local authorities on how to achieve the balance of high recycling, low financial costs and best overall environmental outcomes (as measured by ecological footprint impact). Having end markets is not sufficient; they must be end markets that contribute to high quality recycling. That said, the Welsh Government does acknowledge that there may be circumstances within local authority areas where the Blueprint (in essence the separate collection of materials) is not practicable. In such circumstances the ‘TEEP test’ (as provided by Article 11 of the EU Waste Framework Directive, as transposed in Wales under Regulation 13 of Waste (England and Wales) Regulations 2011 (as amended)) should be applied and services more appropriate to those circumstances should be provided. The TEEP test is a test of whether separate collections are technically, environmentally and economically practicable. At the local authority level, however, it is the Welsh Government's view, based on the evidence, that separate collections are possible in all local authority types, with some areas or some property types in some authorities potentially requiring derogation.

Under the Collaborative Change Programme (CCP) local authorities are able to request that whole collection services are reviewed and the Blueprint approach tested based on the individual circumstances of those authorities.

***To what extent local authorities' recycling practice aligns with the Welsh Government's Municipal Waste Sector Plan Collections Blueprint, and to explore barriers and enablers to adherence.***

Local authorities have a statutory duty to comply with the separate collection requirements laid down in Regulation 13 of the Waste (England and Wales) Regulations 2011, as amended. This requires local authorities and private waste management companies to set up by 1 January 2015 separate collections for paper, glass, metal and plastic where this is necessary to achieve high quality recycling, and it is technically, environmentally and economically practicable. Co-mingling is not a form of separate collection. It is the opinion of the Welsh Government that the Collections Blueprint service is compliant with Regulation 13 (as amended).

The following local authorities currently have, or have announced the intention to have, services that align with the Collections Blueprint: Anglesey; Conwy; Powys; Newport; Torfaen; Bridgend; Merthyr Tydfil and Blaenau Gwent. Neath Port Talbot is trialling the Blueprint approach and may adopt it soon.

In addition, there are a number of authorities that provide multi-stream, kerbside sort collections which, though not Blueprint, are closely aligned to it: Gwynedd, Flintshire and Wrexham. Swansea provides a multi-stream service that, whilst not kerbside sort, is never-the-less intended to comply with the separate collection requirements that start on 1<sup>st</sup> January 2015.

Of the remaining nine local authorities, Monmouthshire, Cardiff, Rhondda Cynon Taff and Ceredigion are currently reviewing service delivery options. Denbighshire, Caerphilly, the Vale of Glamorgan, Carmarthenshire and Pembrokeshire are not considering alternatives to co-mingled collections.

The Welsh Government's Collections Blueprint is currently advisory and is not mandatory for local authorities. It provides an approach to recycling that the Welsh Government considers offers the best opportunities:

- to reduce ecological footprint;
- for lower cost recycling services; and
- for resource efficiency and the facilitation of high quality materials to be retained within the circular economy.

The evidence sources that have informed the Blueprint are provided in Annex 1.

The benefits of wider adoption of the Blueprint include achieving the benefits listed above. They also include the potential to standardise services, reduce costs and enable better value procurements of fleets and containers. The barriers to wider adoption of the Blueprint include the reluctance of some to accept the Welsh Government's evidence base in support of the approach. Where such reluctance

does not exist the barrier is principally the capital cost of making a service switch. This cost may be mitigated by aligning service switches with the end of contracts for vehicles etc.

Monmouthshire County Council (MCC) has highlighted the Welsh Government's prioritisation of sustainability to the exclusion of other factors as one reason that the Blueprint is not universally followed:

*“WG’s waste strategy and the rWFD consultation are solely focused on sustainability, yet sustainability is only one of the considerations that we must have regard to when exercising our statutory functions.”*

It is correct that the Welsh Government's waste strategies and policies do start from an environmental and sustainability perspective; however, the latter also encompasses economic and social goals. It is the objective of the waste strategy to contribute as much as possible to reducing overall ecological footprint impacts, and to delivering good economic and social outcomes at the same time, and reduce service costs. Data collected by Welsh Local Government Association (WLGA) and modelling recently carried out by and on behalf of the Waste and Resources Action Programme (WRAP) for several Welsh local authorities suggests that the Collections Blueprint approach will save money as well as achieving the best sustainable development outcomes. This is consistent with the findings of the consultants Eunomia, which concluded that as higher levels of recycling were reached so the financial savings of the Collections Blueprint approach would become greater - reaching ca. £20 million/year.

The MCC view reflects the position of several local authorities and appears to relate to their interpretation of Section 2 of the Local Government (Wales) Measure 2009:

## *2 General duty in relation to improvement*

*(1) A Welsh improvement authority must make arrangements to secure continuous improvement in the exercise of its functions.*

*(2) In discharging its duty under subsection (1), an authority must have regard in particular to the need to improve the exercise of its functions in terms of*

- (a) strategic effectiveness;*
- (b) service quality;*
- (c) service availability;*
- (d) fairness;*
- (e) sustainability;*
- (f) efficiency; and*
- (g) innovation.*

*(3) For the meanings of paragraphs (a) to (g) of subsection (2), see section 4.*

It is the view of the Welsh Government that the Collections Blueprint promotes strategic effectiveness, improves service quality, improves service availability, is fair, is sustainable, is efficient and promotes innovation. There is no contradiction

between the Welsh Government's promotion of the Collections Blueprint and high quality, citizen centred services. Further, it is the opinion of the Welsh Government that the Collections Blueprint is fully compliant with the law.

***Assess the availability of information and guidance to householders about why and how they should be recycling, and to explore potential barriers and enablers to improving recycling rates.***

The Welsh Government funds Waste Awareness Wales (hosted by WLGA) to communicate messages on recycling and to support local authorities to communicate messages. The more standard recycling services are across Wales the easier, and more cost effective, it is for Waste Awareness Wales to use pan-Wales messages with consistent themes.

Once the householders and businesses of Wales understand what is expected of them in relation to participation in recycling services, most of them take part. This is irrespective of the recycling approach undertaken. Barriers to higher recycling include the nature of wastes (e.g. multi material composite packaging), suitable re-processing capacity (e.g. for absorbent hygiene products (AHP) and price volatility for recyclates. The Welsh Government recognises that it may need to act further to help overcome these barriers and is working with its delivery agents to this end.

***Explore Local Authority reactions to the recently published Waste Regulations Route Map and the potential impacts and implications of this on recycling practice across Wales.***

There have been a number of local authority responses to the 'Consultation on draft Statutory Guidance on Separate Collection of Waste Paper, Metal, Plastic and Glass' issued by the Welsh Government in April 2014. These are being considered and will be responded to by Welsh Government in due course. Some of the responses from local authorities are broadly similar to the reactions of local authorities to the 'Waste Regulations Route Map' published by WRAP since this aligns with the draft Statutory Guidance.

***Gain greater understanding of the relationship between recycling collection practice and recycling rates.***

Initial analysis of data returns made by local authorities on the WasteDataFlow system suggests that there may be an inadvertent under-reporting of reject rates by several local authorities, thus making meaningful comparisons of performance difficult. The Welsh Government has asked WRAP to map the flows of waste materials from householders to end destinations, considering rejects in each stage of the journey.

The Materials Recycling Facility (MRF) Regulations which apply from October 2014 will hopefully result in more accurate measures of rejects and contamination at MRFs. MRFs range from primary sorting facilities that received co-mingled materials through secondary and tertiary facilities that progressively sort materials to produce higher quality materials.

It is the view of the Welsh Government, based on evidence provided by WRAP and several consultancies that **net** recycling rates will be little different between local authorities using separate collections (as in the Blueprint) and those using co-mingled collections. However, recent work by WRAP shows that, if applied across Wales, then Collections Blueprint aligned services would result in a national recycling rate in excess of 70%. This will be true of co-mingled services too. The evidence though indicates that the environmental and financial benefits of achieving similar high recycling rates are much greater for the Blueprint services. This includes reduced ecological footprint impacts and lower unit costs of service delivery.

## ANNEX 1

### EVIDENCE USED TO DEVELOP, UPDATE AND TEST THE COLLECTIONS BLUEPRINT

- ADAS UK LTD, 2006. This was the first attempt, some four years after local authorities embarked on higher levels of recycling, to measure the respective carbon impacts of separate collections of recyclables and co-mingled collections of recyclables. It clearly demonstrated the carbon impacts of Materials Recovery facilities (MRFs).

Since the study was carried out there have been changes that have led to there being even greater differences between the carbon impacts of the respective approaches. The development of Resource Recovery Vehicles (RRVs) specifically designed to enable recycling collections using fuel efficient vehicles has reduced the carbon impacts of separately collecting recyclables.

The value of separate collections is that materials can be prepared and bulked at a depot and then sent on directly to re-processors. Co-mingled materials require MRFs. The ADAS study assumed a primary MRF only. Several waste companies now openly describe their business models as being based on performing secondary sorting. The primary MRF will sort into material types and a secondary MRF will sort into paper grades, plastic polymers, glass colours etc. Such secondary sorting is required to produce materials required by re-processors that are carrying out high quality recycling. The introduction of secondary sorting introduces a new tier of carbon (and financial) costs.

- Eunomia Kerbside Collections Options Wales, January 2011. The most data intensive study of collection methods and their consequences ever undertaken, with detailed reports for 6 participating local authorities. This study concluded that at high levels of recycling the costs differences between kerbside sort and co-mingled services would become magnified. The report estimated annual savings to Wales of ca. £20 million if all local authorities pursued the Blueprint approach. It is important to note that the Eunomia study was not able to consider the most up-to-date Blueprint services (e.g. Bridgend and Conwy) which developed later. Consequently, it would be reasonable to assume that the savings might be larger than estimated in the report.
- 4R Environmental analysis of procurement outcomes. The contention that kerbside sort services will prove to be lower cost is borne out in this report by 4R Environmental. The report shows that where tenders for different approaches were allowed that the kerbside sort tenders tended to be significantly lower cost. The study covers April 2008 to February 2012.
- The ARUP Ecological Footprint report, May 2009. This report suggests that for some materials, including plastics and glass, that there is a significant difference in ecological impact between high and low quality recycling (in the context of what happens to of materials).

- The European Declaration on Paper Recycling 2011 to 2015. This declaration reflects the view of the relevant recycling sector for paper that co-mingling should be phased out and replaced with separate collections, to support high quality recycling:

*“To secure [sic] used paper collected in Europe can be recycled in the paper industry, multi-material collection schemes (“co-mingled collection”) where all recyclable materials are collected in one stream must not spread further in Europe and must be phased out where it already exists. Co-mingled collection leads to contact with organic materials, a higher share of unusable materials and refuse and is therefore less resource efficient and more costly.*

*Countries where co-mingled collection is predominant today must make significant progress towards the targets on separate collection set out by the Waste Directive.”*

- The WRATE analysis for WRAP by Environmental Resources Management Ltd, March 2009. This study concluded that the environmental impacts of separate collections were lower than the environmental impacts of co-mingled collections. The study was based on use of the Waste and Resources Assessment Tool for the Environment (WRATE) developed by the Environment Agency. Whilst the tool was not designed to model differences in collection methods *per se* its use and conclusions are consistent with other studies.
- The KAT analysis by WRAP, March 2009. The Kerbside Analysis Tool (KAT) has been developed to model the financial impacts of different methods of collection. In this report by WRAP it was concluded that separate collections would tend to be lower cost than co-mingled collections. The KAT model has been used to carry out options appraisals for several different local authorities under the Collaborative Change Programme (CCP). The process has involved the active participation and co-operation of local authority officers and the use of local authority specific data. In all cases separate collection options have been shown to be lower cost.
- Grant Thornton/Oakdene Hollins Carbon Agenda report on glass recycling – showing carbon benefits of re-melt. This report highlights the carbon difference between re-melt and non re-melt applications for recycling glass. Re-melt options have a lower carbon impact.
- ACR+ and FEVE, the European Container Glass Federation published: Glass Recycling and Separate Waste Collection: Key Drivers Towards a Circular Economy in 2012:

*“In separate collection systems the processed material is of better quality to meet the specifications necessary for the bottle-to-bottle production and is cost competitive in relation to the use of virgin raw materials. Other systems, like co-mingled collections can be either too costly or provide glass only suitable for low-grade applications (e.g. as aggregate). These applications are*

*literally a waste – because the material is lost forever from the circular economy.”*

- MRF Output Material Quality Thresholds report, November 2009. Resource Futures was commissioned by WRAP to investigate the quality requirements of UK re-processors and their relationship to the output from UK materials recovery facilities (MRFs). The results found high levels of contamination in the output from MRFs, which are classed as being recycled. The compound loss for a typical ‘basket’ of material collected for recycling is ca. 20%.
- MRF Quality Assessment Study report, WRAP, November 2009. The aim of this project was to provide robust data on the composition of input, output and residual waste materials at MRFs across England, Wales, Northern Ireland and Scotland. The data provides information on the quality of material processed at MRFs and material contaminant levels. This showed that across the 17 MRFs studied, the median level of contamination of the incoming co-mingled material was 6.4% to 17.5%.
- Choosing the right collection system, WRAP June 2009. In this guidance WRAP concluded that:

*“On the evidence available to WRAP, our view is that kerbside sort systems offer reliable material quality and lower net costs for council taxpayers. They are also capable of capturing the same volume of material as co-mingled schemes. There is no evidence that their operation – properly explained and justified – is unacceptable to householders and the physical evidence of sorting of materials happening at the kerbside is reassuring to sceptical residents. There appear to be no unmanageable health and safety considerations. Because of our priority for quality materials as a way to improve resource efficiency, WRAP believes that kerbside sort collections should be preferred where they are practical and that should be in the majority of local authority areas.”*

Oakdene Hollins Ltd ‘Maximising Reuse and Recycling of UK Clothing and Textiles’ report for Defra, October 2009. The report suggested that separate collections of textiles would be needed to promote high quality recycling:

*“The availability of kerbside collection of used textiles has almost doubled since 2002 to over 30%, but is still only half of that for glass, plastics and metals. The growth of co-mingled household collections is a threat to greater recycling and reuse, as textiles are unattractive to MRF operators and the collection methods often result in poor quality.”*

- Future Perfect, Biffa 2003, which includes: *“Biffa considers that the earlier in the materials recovery stage that separation of materials can be effected the better the overall system and the lower the likely environmental impact and cost. The householder is ideally placed to act in a way in which dry recyclables (and organic materials) are kept out of the waste, reducing both contamination and the quantity of residual waste for final disposal. This can capture a high level of the available materials in a form which would be*

*welcomed by many processors, circumventing any need for MRFs, which tend to be both labour and capital intensive”.*

This illustrates the rationale for separate collections that the waste industry promoted ten years ago. The Welsh Government took account of such arguments during the development of its strategies and policies. It is considered that this rationale applies just as much today – that separate collections have lower environmental impacts and enable local authorities to provide lower cost services.

- Zero Waste Scotland report, March 2014, on contamination in separately collected materials. This report published in March 2014 shows that contamination rates in separate collected fractions tend to be very low.
- A Caerphilly Council Regeneration and Environment Scrutiny Committee report of 10 December 2013. This report refers to contamination issues and impacts on the Council’s co-mingled collection service:

*“During this period our collection crews had been trying to identify properties that are placing non-targeted materials in their bins and attach stickers to the bins advising of the problems.*

*The above exercise resulted in a reduction in the amount of recycling we are collecting at the kerbside (over 15% in some areas) with a similar increase in tonnages being delivered to our Household Waste Recycling Centres (HWRC). Whilst this material is not lost from our recycling performance, it is sent to a MRF better suited to dealing with a combination of materials. Again, this is at a substantially increased cost.”*

- The Local Authority Carbon Recycling Index produced by Eunomia, July 2014. This report provides an alternative metric of environmental performance of recycling services based on carbon impacts. Separate collection services tend to perform better in carbon terms than co-mingled services. The data shows that both Powys and Cheshire West and Chester (the best performer) improved their carbon performance following a switch from co-mingling to kerbside sort based separate collections.
- The Collections Blueprint report. WRAP commissioned a report by Eunomia examining the likely impacts if all local authorities in Wales were to implement Blueprint recycling services. These would include separate collections of recyclables, food waste being collected on the same vehicles as dry recyclables, restricted residual waste storage capacity and the other aspects of the Blueprint approach. The study looked at recycling/waste services across the UK that included the main aspects of the Blueprint approach. Where there were significant aspects that were absent (e.g. restricted residual waste capacity) the data was adjusted accordingly (as explained in the report). The conclusion is that there is extremely strong evidence to suggest that full adoption of the Blueprint will result in a national recycling rate of at least 69%. Combined with other measures there is a probability of comfortably exceeding the 70% target.

- Resource Recovery Vehicle (RRV) Report. WRAP has commissioned a review of the different RRVs available on the market. This report considers relevant technical specifications and considers advantages and disadvantages with different models. It illustrates the good fuel economy achieved by these vehicles.
- End destination reports for Wales. The end destinations reports for the Welsh Government have highlighted that the information about the end destinations of materials is poor. A separate study is being carried out by WRAP to try and improve mass flow analysis.
- It is possible that MRF recycling rates are being over-reported via WasteDataFlow. The WRAP reports on MRF contamination previously referred to suggest potential overall contamination rates of outputs in excess of 20%. In an article in 'Materials Recycling Week' ['MRF key to improving real recycling rates' - 26 July 2013] John Glover the Managing Director of Bywaters, which operates a large MRF in London, wrote:

*"If truth and reality are accepted using existing norms true recycling rates could flatline in 2012 and 2013.*

*When recycle prices were high in 2011 all parties were driven forward on a strong wind and contamination and fines were effectively ignored.*

*But reality hit hard in 2012 in both the public and private sectors and we all have had to address the issues or go home. I believe the corrected norm of 5% contamination/fines became 18%+ by the end of 2012 and this is how we started 2013. There will be those that wish to ignore the facts but if the new Defra MRF rules are implemented later this year and the sampling is effectively standardised there will be no hiding place for delivering excessive fines/contamination to a MRF."*

If MRF rejects are being under-reported, especially if contamination is as high as Mr Glover reports, then this will lead to over reporting of recycling rates.

- Over the last 10 years WRAP has been providing support to hundreds of LAs in England, NI and, latterly, Wales. During the course of this work WRAP or its appointed contractors have used modelling tools to compare the performance of the various collection systems: multi-stream (separate collections), single stream co-mingled and twin stream co-mingled. In the overwhelming majority of cases the multi-stream separate collections have performed better.

**Contrary evidence:**

- There is other evidence that does not support the Blueprint approach and this has also been considered.
- WasteDataFlow. Over recent years the recycling rates obtained via WasteDataFlow have in many cases shown that authorities that operate single stream co-mingled systems often record higher recycling rates than those collecting separately. The view of the Welsh Government is that these reasons need to be properly understood before a conclusion on policy is reached.
- White Young Green (WYG) has produced reports which it claims show that yields of materials are higher where co-mingled collections are used. It uses information from WasteDataFlow to demonstrate that weights of recyclables collected (rather than proportions) are higher where co-mingled.
- The Welsh Government considered the WYG reports carefully and concluded that there were a number of flaws in the approach taken to the analysis of the information available. If inaccurate reject rates from MRFs are accepted (and they were unless the reject rates reported were zero) then the calculations based on them will be flawed.
- In their environmental assessment WYG did not differentiate between the type of recycling of the materials (ie. whether closed or open loop) and assumed that the environmental impacts of all forms of recycling are the same. This contrasts with the evidence referenced by the Welsh Government, drawn from other sources.
- The WYG reports make no analysis of other factors that affect recycling rates including the restriction of residual waste storage capacity through either smaller containers or less frequent collections. The report also fails to consider the impact of the range of materials collected. The Blueprint approach results in a wider range of materials being collected than some of the previous kerbside sort services.

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# Agenda Item 3

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**Well-being of Future Generations (Wales) Bill**  
**Response from Auditor General for Wales**

**Response of the Auditor General for Wales to the Environment & Sustainability Committee  
consultation on the general principles of the Well-being of Future Generations (Wales) Bill**

**Summary**

1. I welcome the stated general purpose of the Act, i.e. that it is “to ensure that the governance arrangements of public bodies for improving the well-being of Wales take the needs of future generations into account”. This provides an opportunity to address issues raised in some of my reports, such as, Sustainable development and business decision making in the Welsh Assembly Government (2010), and in the Williams Commission report. I think the provision for a “common aim” (improving the economic, social and environmental well-being in accordance with the sustainable development principle) is appropriate, though I do think that the matters to be taken into account in applying the sustainable development principle should include living within environmental limits. I also think a more clearly principle-based approach, rather than one that is mixed with a goals and objectives approach, as set out in the Bill, would be more streamlined and probably more effective.
2. I am disappointed that the Bill misses the opportunity to address some potential barriers to its implementation. These include omission of reform of the Local Government (Wales) Measure 2009, which provides an improvement planning approach that is at odds with the Bill’s concept of sustainable development as the core principle for public bodies’ operations. Similarly, the lack of a specific review function for the Auditor General within the Bill will lead to an expectation gap in relation to review arrangements, which I believe will prove unhelpful to the achievement of the Bill’s purposes.

**How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector**

3. I think it is appropriate that the Welsh Government should seek legislation to put sustainable development at the heart of government and the wider public sector. That said, the principle-based approach set out in the Welsh Government’s White Paper, *A sustainable Wales: better choices for a better future* (2012), rather than the goals and objectives approach, as set out in the Bill, would be both a more streamlined and probably more effective approach. I provide further detail on this point below.

**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**
4. The combination of the “common aim” (clause 2) and the “sustainable development principle” (clause 3) is, in my view, a well-considered and practical approach to establishing sustainable development as the central organising principle of the public sector in Wales. It resets the frame of reference for public administration in Wales. Given robust and proportionate implementation, this has the potential to have a positive impact on the quality of decision-making and governance in the specified public bodies in Wales.

5. In 2005, the OECD stated that the effective implementation of sustainable development required, among other things, a common understanding of sustainable development. The “common aim” and the “sustainable development principle” should be conducive to establishing such a common understanding.
6. To provide an effective and practical steer to influence decision making behaviour, it is helpful that the Bill sets out a limited number of matters to be taken into account so as to meet the sustainable development principle (clause 8(2)). However, I consider that a key matter that is missing is improving well-being within environmental limits.

**- 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**

7. The Bill unhelpfully mixes a management by objectives approach with a principles- based approach. I recognise that setting national goals appears attractive and reflects the United Nations process of establishing Sustainable Development goals. Effective goal setting at a national level is very challenging. It raises the following particular risks:
  - the goals may not be effective drivers for the change that the Bill seeks to bring about, as public bodies may assign their existing activities under these goals, but
  - more specific goals amount to target setting, which can lead to the inefficiencies of micro-management and gaming (playing to the rules, but not actually achieving good outcomes)<sup>1</sup>.
8. A key advantage of a principles-based approach is that it can be applied at all levels, and to a range of bodies, in a meaningful and proportionate way. It can be applied proportionately to key decisions, such as, corporate planning, budget setting and procurement. Such proportionate application can help minimise the risk of increased bureaucracy. Indeed, in my view the more clearly principles-based approach of the 2012 White Paper would have enabled public bodies (and their stakeholders) to apply the sustainable development principle to agreeing the outcomes that they seek, and to agreeing the way in which they seek to achieve those outcomes. I fear that, unfortunately, the combination of a prescribed objective-setting approach will engender more mechanistic behaviour, leading to the drawbacks identified above.
9. While the criteria for selecting the goals, as set out in para 71 (page 18) of the Explanatory Memorandum, seem well-considered, it is not clear that the goals as set out in the Bill “collectively result in a sustainable Wales which respects environmental limits”. There is no mention of environmental limits in the goals or their descriptions. A wide range of international research<sup>2</sup> notes that it is reference to environmental limits that distinguishes sustainable development from “business as usual”.

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<sup>1</sup> See, for example, *The nature of planning constraints*, Report to the House of Commons Communities & Local Government Committee, University of Cambridge, March 2014. Also, *Systematic side effects of over-prescribing goal setting*, Working Paper, Ordóñez et al, Harvard Business School, 2009.

<sup>2</sup> For example, *Governance for sustainable development: the challenge of adapting form to function*, edited by William M. Lafferty, Edward Elgar, Cheltenham UK, 2004

**- The approach to measuring progress towards achieving well-being goals and reporting on progress**

10. I consider the Bill's provisions for national indicators and an annual well-being report appropriate. Such indicators and reporting are important for increasing the ability of people and government to track progress, even if only in broad terms. It is, however, important to be realistic about these indicators: establishing useful and appropriate indicators is a difficult task, and the Bill's provisions cannot in themselves guarantee their relevance, measurability and accuracy. It is encouraging to see that the Welsh Government has engaged with the Office of National Statistics and drawn upon international good practice to inform its approach.
11. It is also important to bear in mind that the goals, as currently framed, cannot be achieved by the public sector alone. This is unavoidable. (Reframing them in terms of achievement by public sector alone would not be realistic or appropriate, as it would be unlikely to lead to goals that represent broad improvement of economic, social and environmental well-being.) Related to this, it is likely to be very difficult to disaggregate the public sector contribution from that of other sectors. Indicators can therefore generally only be used to track the progress of Wales, or, in some cases, parts of Wales. For the most part, it will not be possible to rely on indicators to assess the performance of particular public bodies in achieving goals.
12. I should at this point note that it is not necessary to have goals in order to have useful indicators. Indicators can be used to track progress towards desired outcomes without such outcomes being set as specific goals (or targets). As mentioned above, setting specific goals risks perverse behaviour, such as gaming, because of the particular emphasis on particular changes and the expectation that organisations are seen to contribute to those changes. Indicators can allow broad progress to be tracked with less risk of such perverse behaviour.

**- The establishment of a Future Generations Commissioner for Wales, the Commissioner's role, powers, responsibility, governance and accountability**

13. I supported the approach for establishing a Future Generations Commissioner as set out in the 2012 White Paper. The approach proposed a role which combined a convening role across civil society, with communicating and building an understanding of what the application of the sustainable development principle means in practice, commissioning and drawing upon research and good practice from within and beyond Wales, providing support and advice, and providing a "state of the nation report". A Future Generations Commissioner undertaking this role would have provided valuable expertise on sustainable development for public bodies to draw upon. As set out in the 2012 White Paper, the roles of the Future Generations Commissioner and the Auditor General were complementary in strengthening accountability for implementing the duty.
14. As proposed in the Bill, the Future Generations Commissioner will have a role in monitoring and assessing the achievement of well-being objectives by the public bodies. This raises two problems: limited capacity and a conflict in roles. In terms of capacity, if the Commissioner has to devote resources to monitoring and assessing achievement, the Commissioner will have fewer resources to devote to promoting knowledge. The conflict of roles issue is that combining monitoring with promoting knowledge is likely to make public bodies less open to seeking advice and discussing problems with the Commissioner. Such a problem is evident from our own experience of developing materials for our Good Practice Exchange. Audited bodies are often

reluctant to discuss their experiences for fear of providing material that might be subject to public criticism. I am therefore concerned that the Commissioner's ability to undertake an effective convening role, and so be the hub for expert knowledge in sustainable development, will be compromised by the procedural pressures of monitoring and assessing.

15. However the role of the Commissioner is defined, it would be better if the Commissioner were appointed by the National Assembly, rather than the Welsh Government. Appointment by the National Assembly would give the Commissioner greater independence, and it would better convey the importance of the role.

- **The establishment of statutory Public Services Boards, assessments of local Well-being and development/implementation of local well-being plans**

16. I welcome the Bill's provision that the "local aim" of public service boards is to "improve the economic, social and environmental well-being" of their areas in accordance with the sustainable development principle and that public service boards are to contribute to the pursuit of the "common aim" (clause 34). The provisions concerning Public Service Boards are, however, very detailed, prescriptive and focused on process. Furthermore, they seem to indicate a heavy emphasis on the social aspect of the local and common aims at the expense of the economic and environmental aspects. Clause 36(3) exemplifies this. In listing seven specific social assessments that must be taken in to account in preparing assessments of local well-being, the clause seems to be at odds with the balance of the "common aim"—there is no provision requiring account to be taken of assessments that are directly relevant to economic and environmental well-being. A more balanced and enabling approach would be to require the board to take account of a range of economic, social and environmental assessments, in a balanced and integrated manner.

**How effectively the Bill addresses Welsh international obligations in relation to sustainable development**

17. As I understand the situation, strictly speaking, Wales does not itself have international treaty or protocol obligations in relation to sustainable development. Such obligations fall to the UK Government, and accordingly the Welsh Government and other public bodies in the UK are required to comply with the Climate Change Act 2008, which is the UK Government's principal means of meeting commitments agreed at the 1992 UN Conference on Environment and Development. Despite this, practically and more broadly, Wales clearly has its part to play in meeting generally accepted international obligations.
18. The Bill goes some way towards an appropriate contribution. This is evident from the Bill's definition of sustainable development being essentially the same as that produced by the World Commission on Sustainable Development. However, the absence of emphasis in the Bill on living within environmental limits undermines this contribution. This is because the consequences of not living with environmental limits have strong international implications.

**Any potential barriers to the implementation of these provisions and whether the Bill takes account of them**

19. As I noted in my response to the 2012 White Paper, the Local Government Measure (Wales) 2009 places sustainability as one of seven "aspects of improvement", and it places extensive

improvement planning and reporting duties on local authorities in terms of those seven principles. In effect, the 2009 Measure makes sustainable development one of seven competing priorities, which is incompatible with the Bill establishing sustainable development as the core principle for public bodies' operations (see para 408 of the Explanatory Memorandum). This conflict between the two pieces of legislation is likely to lead to confusion in local government, and so the 2009 Measure will act as a barrier to implementation of the Bill.

20. The 2009 Measure also places duties on the AGW to audit and assess authorities' compliance with improvement planning and reporting duties. In my response to the 2012 White Paper, I suggested that it would be appropriate to reform the 2009 Measure so that it was made more compatible with sustainable development as the central organising principle. Among other things, reducing the extensive assessment requirements placed on the Auditor General by the 2009 Measure and replacing them with a duty to undertake sustainable development examinations (such a duty was proposed in the White Paper) would mean that the Auditor General could appropriately focus on collaboration between authorities, rather than being tied to assessment of individual authorities.
21. As noted above, the 2012 White Paper proposed "to place a duty on the AGW, to include an examination of how organisations have embedded sustainable development as their central organising principle in relation to the duty". The Bill does not, however, place such a duty on the Auditor General, despite provision for such a duty being within the Assembly's legislative competence. Para 390 of the Explanatory Memorandum inaccurately (in effect) says that sections 17 and 61 of the Public Audit (Wales) Act 2004 mean that the "AGW is under a duty to consider the effectiveness and efficiency of the use of resources for the majority of bodies covered by the Bill in undertaking the FG Bill duties (amongst other functions) – namely the setting of well-being objectives and taking all reasonable steps to achieve the objectives in a manner consistent with the sustainable development principle – on an annual basis as an integral part of the audit of accounts."
22. I regret that I must advise the Committee that this is not correct. The duties in sections 17 and 61 of the 2004 Act require the review of arrangements for securing value for money, not the testing of whether resource utilisation has itself proved, or not proved, effective. Furthermore, as section 17 of the 2004 Act only applies to local government bodies, and section 61 of the 2004 Act only applies to NHS bodies, reliance on these sections would leave central government bodies (the Welsh Government and its sponsored bodies) without review. While sections 17 and 61 of the 2004 Act are useful, they do not in themselves provide for the kind of review that the Welsh Government appears to consider they provide.
23. My current study powers, particularly those under section 41 of the Public Audit (Wales) Act 2004 and section 145A of the Government of Wales Act 1998, are capable (but potentially only on an occasional basis) of providing the kind of review that the Welsh Government has in mind. I say potentially only occasionally because such studies are at my discretion. While I might consider reviews of sustainable development progress important, my successor might not, and, in any event, such a review would need to be considered against other study topic areas. Furthermore, in deciding on what studies to undertake, I must also take account of the views of the Public Accounts Committee (or for local government studies, associations of authorities), and it is entirely possible that other studies would find greater support. As the Welsh Government does not have the power to insist that particular studies are undertaken, if it is

indeed the Welsh Government's policy intent that such studies should be undertaken in future, then explicit provision for this should be made in the Bill.

24. The absence of such specific provision for appropriate review means that review and scrutiny arrangements that are needed to help ensure successful implementation are not as strong as they could be. This omission is therefore another barrier to successful implementation.
25. I would also note that the specified public bodies include the majority of those Welsh public bodies who would be expected to play a key role in respect of the Bill. However, the omission of any need for regard to the "common aim" or the sustainable development principle on the part of review bodies, such as Estyn and myself, would seem to be a potential weakness. Providing for the common aim and the sustainable development principle to apply to review bodies would help ensure that review functions give due consideration of whether other bodies are exercising their functions in accordance with the Bill.

#### **Whether there are any unintended consequences arising from the Bill**

26. The barriers identified under the previous question may be unintended consequences of the Bill as drafted.

#### **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)**

27. I recognise that, as stated in para 326 of the Explanatory Memorandum, it is not possible to quantify the costs and benefits of the activities and changes that result from public bodies' objectives, which are yet to be set. I do, however, consider that it is appropriate that the Explanatory Memorandum attempts to set out an indicative cost for the administrative activities that will result from the Bill, such as the setting of objectives, annual reporting against objectives, consequential additional audit work, the work of the Future Generations Commissioner and the work of Public Services Boards.
28. The cost indications for such administrative arrangements appear, however, to be somewhat underestimated, for the following reasons:
  - a. There appears to be no allowance for work that will be needed to make the change from existing corporate objective setting and reporting processes to objective setting and reporting in compliance with the Bill. (For example, local authority costs for corporate objectives in 2015-16 in table 17 on page 91 (i.e. with the Bill in effect) are the same as those costs in table 14 (i.e. with no Bill).) At the very least, relevant staff of public bodies will need to undertake some additional work in the first two years so as to understand the new objective-setting and reporting requirements of the Bill. Furthermore, given the conflict between the seven aspects of improvement of Local Government (Wales) Measure 2009 and the Bill's sustainable development principle, as noted in para 19 above, the staff of authorities will have to spend some time working through how these differing requirements can be reconciled (if indeed they can be).
  - b. Throughout the Regulatory Impact Assessment, where the Government has sought to calculate costs based on time of staff and their salary (for example, table 3 on page 75), it appears that it has used gross salary costs but has not applied unavoidable oncosts,

such as National Insurance and employer pension contributions. If this is the case, then such cost indicators are understated by about 30 per cent.

- c. The local authority annual salary rates appear in many cases to be understated. For example, the annual director salary for a large local authority in table 3 on page 75 is given as £75,000. The pay policy statement 2014-15 for City & County of Cardiff, however, states that director salary from 1 April 2013 is £120,000, and that for the City & County of Swansea gives a scale of £95,000 to £110,000 from 1 April 2014. (The Memorandum says that table 3 also applies to Rhondda Cynon Taf, for which an equivalent pay policy statement is not available.)
- d. The extent of work required by some of the work processes that are identified seems underestimated. For example, para 464 of the Explanatory Memorandum states that Local Service Boards meet on average six times a year for two hours, but no time is taken into account for preparing for meetings or travel. The two hour average meeting duration also seems somewhat short. While I have not undertaken a review of the length of such meetings, I gather from general experience that they usually take about five or six hours.
- e. As mentioned in the Chair of the Wales Audit Office's submission to the Committee, the cost estimate included for the Auditor General (for work in all sectors, not just local government) in the Explanatory Memorandum is not appropriate and is probably understated.
- f. Also as mentioned in the Chair of the Wales Audit Office's submission (and above), the discrepancy between the Welsh Government's expectation of the kind of review that can be provided within the Auditor General's existing functions and other interpretations of those functions may cause debate about fees and other resourcing. Such debate will itself consume resources.

29. I should make clear that my observations are based only on a reading of the Explanatory Memorandum, rather than an audit of the underlying working papers. (Such an audit would be possible, but would need to be arranged, including in terms of PAC views on such work and, in practical terms, administrative access arrangements with the Welsh Government during the legislative process.)

**The appropriateness of the powers in the Bill for 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 Welsh Ministers to make subordinate legislation).**

30. Generally, the powers to make subordinate legislation seem appropriate to the content of the Bill. However, given the importance of the Future Generations report (clause 21), it would seem more appropriate for the provision for amending the definition of the reporting period to require affirmative procedure, so that such changes are approved in Plenary.

## **Annex: Other comments of the Auditor General for Wales on the Well-being of Future Generations (Wales) Bill and its Explanatory Memorandum**

### **The Bill**

#### **Clauses 13 and 14, Annual reports by the Welsh Ministers and annual reports by other public bodies**

1. There is no provision in the Bill for any external review of annual reports so as to verify their accuracy. Without such review, bodies may publish annual reports that mislead the public and others. Such review appears to fall outside the Future Generations Commissioner's duties, including the duty under clause 17(b) to "monitor and assess the extent to which well-being objectives set by public bodies are being met". Such review also falls outside the Auditor General's current duties. It would be open to the Auditor General to undertake reviews of annual reports under current Auditor General study powers, but, given competing demand for study resources, such work would not necessarily be of sufficient relative priority as to be selected for delivery.

#### **Clause 23, Joint working**

2. Clause 23 provides joint working provisions that apply where the Future Generations Commissioner intends to provide advice or assistance relating to a matter that is similar to the subject matter of a review by the Children's Commissioner, the Older People's Commissioner or the Welsh Language Commissioner. It may be appropriate to make similar provision in relation to matters that are subject to review by the Auditor General.

#### **Clauses 33(2)(c), 35(6)(c), 37(8)(c), 43(6)(c) and 44(5)(c)**

3. These provisions require a raft of documents concerning public services boards to be sent to the Auditor General:
  - a) Local authority overview and scrutiny committee reports and recommendations with respect to the public services boards;
  - b) Public services boards' assessments of local well-being;
  - c) Public services boards' local well-being plans;
  - d) Public services boards' amended local well-being plans;
  - e) Public services boards' annual progress reports.
4. While this material may be useful contextual information for the Auditor General's studies and other work, as the Auditor General has no functions in respect of public services boards *per se*, it is not clear what specific purposes these requirements to send documents serve,

nor what the Auditor General would be expected to do with them. The absence of provision concerning what functions the Auditor General should undertake in relation to the documents raises the risk of a gap between the expectations of the Welsh Government (and perhaps others) and what the Auditor General provides.

#### **Clauses 37 and 44, publication of well-being plans and annual progress reports**

5. Clause 37 requires public services boards to publish their first well-being plans no later than one year after the next ordinary election (and clause 43 allows well-being plans to be amended at any time). Clause 44 requires public services boards to publish annual progress reports no later than one year after the publication of their well-being plans and subsequently no later than one year after the publication of the previous report. Consequently, well-being plans and progress reports for different public services boards will cover different 12 month periods, which will inhibit or prevent fair comparison between public services boards. Well-being plans and progress reports that do not align with financial year reporting risk not being regarded as part of mainstream business reporting.

#### **Para 5(3) of Schedule 2 (Future Generation Commissioner pension provision)**

6. Para 5(3)(b) of Sch 2 appears to either provide for the Welsh Ministers to pay pension contributions in respect of former Commissioners (instead of current Commissioners), or provision for the payment of pension contributions in respect of current Commissioners has been omitted.

#### **Para 9 of Schedule 2, Future Generations Commissioner's staff**

7. Para 9(5) requires the Commissioner to obtain the approval of the Welsh Ministers for the numbers, terms and conditions, and payment of staff. The Commissioner would be more independent if his resourcing were instead subject directly to National Assembly oversight.

#### **Paras 11 and 16 of Schedule 2, Future Generations Commissioner complaints procedure and annual report**

8. It seems somewhat excessive for the Bill to prescribe that the Commissioner must establish complaints procedures (para 11). It seems excessively bureaucratic to require the Commissioner to summarise complaints in his annual report (para 16).

#### **The Explanatory Memorandum**

9. **Para 316** – This refers to Auditor General's reports in the public interest with regard to Caerphilly, Carmarthenshire and Pembrokeshire. It should be noted that these reports were from the appointed auditor and not the Auditor General.



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU

National Assembly for Wales  
Environment and Sustainability Committee  
WFG 18  
Well-being of Future Generations (Wales) Bill  
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Pages 1 of 4

Dear Chair

**The Well-Being of Future Generations (Wales) Bill: Consultation on General Principles**

1. Thank you for the invitation to provide evidence to the Committee on the general principles of the Well-Being of Future Generations (Wales) Bill. I am sorry that, because of other commitments, I am not able to attend the Committee to give evidence on 1 October. I hope that this written submission, combined with the Auditor General's evidence, will be sufficient to inform your deliberations.
2. You will know that the Wales Audit Office has been established as a statutory board and that, since 1 April 2014, it has been responsible for employing staff, procuring services, and providing other resources to enable the Auditor General to exercise his functions. It also monitors and advises the Auditor General.
3. Given the Board's responsibility for resources, it seems appropriate that we specifically address the sixth question (on the financial implications of the Bill) set out in your invitation, though there are, of course, connections with your other questions. I have discussed your other questions with the Auditor General, and we agree that it is appropriate that he responds to them as they relate to the conduct of audits which are within his purview).

*6. 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)*

4. The Bill is innovative and has wide-ranging implications for the public bodies covered by the duties that it imposes. While this innovation provides an

opportunity for appropriate focus of public administration, it makes identifying the financial implications of the Bill a difficult task. This is evident from paragraph 327 of the Explanatory Memorandum, which noted that PwC were commissioned (we understand by the Welsh Government) to assess the administrative impact of the legislation on public bodies but were “unable to provide a quantified assessment of the costs involved”.

5. As the Board does not itself have public audit functions, it is not appropriate for us to attempt to analyse in any depth the Government’s costing across the public sector. However, given our responsibility for providing resources to enable the Auditor General to discharge his functions it is appropriate for us to comment on the Government’s costings as they relate to the Wales Audit Office.
6. We are concerned that the Explanatory Memorandum includes an on-going annual cost of audit review work of £130,000. This figure is attributed to the Wales Audit Office’s estimate of income and expenses for 2014-15, which reflects some early tentative costing undertaken in response to the White Paper, *A Sustainable Wales: Better Choices for a Better Future* (2012). Our 2014-15 estimate noted that, “as the Bill is yet to be published, it is very difficult to properly assess the level of required activity and associated cost”. (This material was also headed “Areas of uncertainty”).
7. We should emphasise that the £130,000 figure was produced in relation to the policy set out in the 2012 White Paper, which proposed “...a duty on the AGW, to include an examination of how organisations have embedded sustainable development as their central organising principle...”.
8. The White Paper’s policy proposal was of course quite different to that now set out in the Explanatory Memorandum (reflecting the provisions of the Bill), which at paragraph 390 is expressed as:

*“This means that the AGW is under a duty to consider the effectiveness and efficiency of the use of resources for the majority of the bodies covered by the Bill in undertaking the FG Bill duties (amongst other functions) – namely the setting of well-being objectives and taking all reasonable steps to achieve the objectives in a manner consistent with the sustainable development principle – on an annual basis as an integral part of the audit of accounts”.*

(We would also emphasise that our legal advice indicates that this explanation in paragraph 390 is not entirely correct).

9. Indeed we understand that the Welsh Government did not obtain confirmation of whether its use of the £130,000 figure was appropriate before including it in the


Explanatory Memorandum. The Welsh Government did request information on the cost of audit under the proposed Bill, to inform its Regulatory Impact Assessment. In order to provide such information, Wales Audit Office staff had several meetings and exchanges of correspondence, including to request the relevant provisions of the Bill. As the Welsh Government did not provide the relevant provisions, our staff were able to give only a range of indicative cost estimates, which were necessarily caveated as being subject to change pending confirmation of the Bill's provisions. These estimates ranged from a minimal (almost check-list) approach with annual costs of some £225,000 through to a reasonably thorough professional audit with annual costs of some £870,000.

10. In our view, while work still needs to be done on identifying how the Bill as it stands interacts with existing audit functions, the cost of the Bill in terms of audit functions is more likely to lie the range mentioned above than at the level quoted in the Explanatory Memorandum.
11. That said, I should also note that we consider that the Bill could be amended so as to reduce costs in terms of audit functions. For example, as suggested in the Auditor General's response to the 2012 White Paper, the Bill could be used as an opportunity to reform the Local Government (Wales) Measure 2009, and so probably reduce local government review costs. In particular, the extensive requirements for the Auditor General to audit improvement authority improvement plans and undertake assessments of authorities' compliance with the improvement duties of the 2009 Measure could be reduced if there were a duty to undertake sustainable development examinations under the Bill along the lines suggested in the 2012 White Paper.
12. Similarly, it is unfortunate that the focus on principles in the 2012 White Paper has been diluted by the inclusion of goals and provision for objectives in the Bill. Goals and objectives introduce both complexity and ambiguity, which will increase the quantity (and therefore the cost) of work that needs to be undertaken.
13. It is also unfortunate that the Bill places no duty on the Auditor General to examine how organisations have embedded sustainable development as their central organising principle. Instead, reliance on existing duties under which the Auditor General must satisfy himself as to whether bodies have made appropriate arrangements for securing economy, efficiency and effectiveness (sections 17 and 61 of the Public Audit (Wales) Act 2004), will lead to confusion and debate about the appropriateness of the extent of work to arrive at such satisfaction.
14. Indeed, the duty to satisfy himself as to whether appropriate arrangements have been made is not the same as the Government's statement that there is a "duty to consider the effectiveness and efficiency of the use of resources ... in undertaking

the FG Bill duties... namely the setting of well-being objectives and taking all reasonable steps to achieve the objectives". This in turn may lead to debate about fee levels that will need to be charged by the Wales Audit Office, which in itself will consume additional resources.

15. In summary, we consider that the Bill provides an opportunity to appropriately focus public administration in Wales. We do, however, consider that the audit function costs set out in the Explanatory Memorandum are inappropriately and misleadingly low. We also consider that the Bill has missed opportunities to reduce or avoid costs by providing the Auditor General with a specific duty to examine the embedding of sustainable development as the central organising principle.
16. I am copying this letter to Jocelyn Davies given the Finance Committee's responsibility for scrutinising the Wales Audit Office's estimate of income and expenses.

Yours sincerely



**Isobel Garner**  
Chair, Wales Audit Office



**Evidence to ESD committee inquiry on the Wellbeing of Future Generations Bill. Response from WWF Cymru.**

**How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector;**

1. WWF wholeheartedly applauded when WG committed to legislate to “to embed sustainable development as the central organising principle **in all of our actions** across Government and all public bodies, bringing forward a Sustainable Development Bill. This approach will set Wales apart as a sustainable nation, leading from the front”<sup>1</sup> Furthermore, this was set as one of the actions required to meet the aim of becoming a One Planet nation.
2. WWF Cymru remains totally supportive of the aim of legislation that could make Wales an exemplar for other countries, which we would promote throughout our global network. So, for WWF, there are 2 key questions. Does it embed SD in all actions? Is it ground- breaking and world leading?
3. WWF believes that there are two fundamental areas where this Bill is entirely deficient. First, the complete absence of the key concept of SD- namely that we must live within environmental limits. Second, a lack of any reference to the overall impacts from Wales on the international global community, including damage to the life support systems upon which we all depend.
4. In our view, overall, the proposal<sup>2</sup> made by the Third Sector Alliance remains a clearer and more straightforward approach to achieving WG’s intention.

**A. Does the Bill embed SD as Central Organising Principle – in all actions?**

5. We consider that the architecture of the Bill fails to adequately embed SD into all the actions of the public bodies. We consider it weakly embeds SD because the whole architecture is solely focused on governance and not decision making and delivery. We would prefer to see a specific substantive duty on public bodies to deliver sustainable development, including delivery of the well-being goals. We would prefer

<sup>1</sup> <http://www.clickonwales.org/2011/07/welsh-government%E2%80%99s-legislative-programme/>

<sup>2</sup> <http://www.shapingfuturewales.org/en/our-proposal/>



to see a duty upon public bodies to pursue SD as their primary purpose. This is a key weakness of the Bill in our view and therefore the Bill fails to meet the WG stated aim of embedding SD *in all actions*.

6. Another way in which the Bill fails to embed SD, in our view, is in its treatment of the definition of SD. First, it turns SD into a principle (not the way it is conceived by Brundtland) and second it limits its scope by inserting the phrase ‘seeking to ensure’. As a consequence, SD is defined in a far more qualified and less rigorous way than in the current SD Scheme, One Wales One Planet (OWOP) -8. These failures are compounded, in our view, by the overarching failure, mentioned earlier of not encapsulating the concepts of ‘environmental limits and concern for global impacts.
7. In sum, we consider that this Bill appears to embed some good governance principles but fails to embed SD itself into the exercise of the functions of public servants. It is further weakened by the complexity of its provisions, leading to gaps in coherence and lack of clarity.
8. Despite these weaknesses, we recognise the vital importance of this opportunity in setting us on a more sustainable path. Therefore, it is imperative that we work to strengthen this Bill through effective amendments.

**A. B Is the Bill ground breaking and ‘leading from the front?’**

9. WWF commissioned academic research from Professor Andrea Ross to directly consider this issue. She compared the Bill with legislation from several other countries. Her conclusion is that despite some innovative aspects, which we acknowledge, the Bill falls short of being a ground-breaking Bill.
10. Legislating for well-being goals sends symbolic and ambitious signals. However, the goals will only be effective if collectively they produce a truly sustainable Wales.
11. The requirement for public bodies to take an integrated approach, by legislating for all three aspects of SD, and as part of the general functions of public bodies, is innovative, but that innovation will be lost if some of the gaps in coherence are not addressed.
12. The terminology of the Bill is unfortunately far weaker than some of the clear, symbolic and ambitious terminology that is used in the existing One Wales One Planet scheme. As referred to above, we are greatly concerned that the Bill fails to deliver upon the important concepts such as ‘living within environmental limits’; ‘reducing Wales’ negative international impacts’, and the reduction of ecological footprint to a level of a ‘fair share of the earth’s resources’. As mentioned, these are significant flaws.
13. Further, by reducing the scope of the Bill to the governance systems it is difficult to argue that this Bill is truly exemplar, particularly when more innovative, symbolic and powerful examples exist elsewhere that are not limited to governance alone (Sweden, Minnesota, Quebec, Australia).

14. **Action: WWF recommends a suite of amendments to the Bill (the Purpose, Goals, the SD definition and/or section 8 (2) Principles, along with some other procedural changes) to deal with these shortcomings. These will be detailed later and will address the scope of the Bill, embedding environmental limits and strengthening the substantive duty, so that it is fit for purpose**

## **2. The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the following areas –**

15. WWF considers that the need for new legislation was well established by WG in 2010.
16. The Wales Audit office identified failings by government to embed SD in its decision making using the Government of Wales Act approach of making a scheme with indicators and annual reports.
17. Key failures identified by the report<sup>3</sup> were:
  - SD was seen as one of many competing objectives, not a means of managing competing priorities
  - there was a lack of clarity on what was meant by SD;
  - there were areas where SD had not been considered e.g. resource allocation, financial and business planning
18. WWF agreed with WG that there was a need for legislation to address these serious shortcomings. It was anticipated that the WG would bring forward legislation that would overcome some of the key barriers to embedding SD within government decision making. These were identified as:
  - A political focus on the short term (rather than long term taking into account future generations)
  - Embedding SD as an integrated approach to strategic, financial and operational planning.<sup>4</sup>
  - The need to go beyond business practices and create a culture where SD is embedded in all key decisions.<sup>5</sup>

### **19. So a crucial question is whether the Bill addresses these issues, improves on the existing system and changes business as usual approaches.**

The short answer is – partially. It does improve the weight on the long term and tries to be clear on integration however there are gaps in this provision. The major failure is in the scope of the Bill, which does not cover financial and operational matters.

### **2a The “common aim” and “sustainable development principle” established in the Bill and the “public bodies” specified;**

20. WWF welcomes the fact that the Bill is structured to provide a clear purpose and aim to be pursued by all public bodies.
21. However we are concerned that the scope of the common aim is limited to ensuring only ‘governance arrangements’ are put in place. Therefore, we do not believe this addresses the WAO’s concern on areas where SD was not embedded nor does it meet WG intention.

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<sup>3</sup> Colman, J. Sustainable development and business decision making in the Welsh Assembly Government. 2010. Cardiff. Wales Audit Office.

<sup>4</sup> WAO recommendation , ibid

<sup>5</sup> WAO recommendation, ibid

22. The WG's ambition is to place SD as a central organising principle of governance. We consider that this requires not only the right governance structures are put in place by public bodies in terms of their systems and processes, including financial and planning, **but also clear obligations placed upon public bodies to achieve the common aim in the exercise of all of their functions.**

23. WWF is of the view that due to the above drafting the impact of the Bill is likely to remain largely neutral in its effect on embedding SD as a central organising principle.

24. Further, WWF is concerned that by including a purpose, aim and principles, together with the delivery of a set of objectives and a duty to maximise contribution, the architecture is unduly complicated, contributing to a lack of coherence to the Bill.

**25. WWF suggests amendments to section 1 to extend the scope to delivery and to section 3 to remove 'seeking to ensure'. A suite of further amendments will be needed to fill the gaps in the overall coherence of the architecture of the Bill.**

**2b 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;**

26. WWF agrees that there is a need for legislation that contains both substantive and procedural duties in order for the implementation of the Bill's provisions to be effective. We consider that a Bill that provides for integration of SD and is coherent would prove truly ground-breaking.

#### **Well-being Goals: section 6**

27. WWF applauds the attempt to provide goals for the public sector which seek to achieve sustainable development in Wales. This structure also partially follows the approach from the UN process in sustainable development goals, which is welcome.

28. However we see three key weaknesses with the Goals – first, the goals do not include provision for 'living within environmental limits'; second, they fail to acknowledge Wales' international impacts ( see Q3); finally, they lack any sense of the scale of change being envisaged.

#### **Living within environmental limits and international impacts**

29. OWOP explicitly refers to both protection of the Earth's life support systems and environmental limits as part of its vision. We consider that living within environmental limits is an inherent aspect of SD as enunciated in the 1987 Brundtland report. This stated that

*"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 organization on the environment's ability to meet present and future needs."*

Brundtland further stated that:

- *sustainable development must not endanger the natural systems that support life on Earth: the atmosphere, the waters, the soils, and the living beings.*
- *But ultimate limits there are, and sustainability requires that long before these are reached, the world must ensure equitable access to the constrained resource and reorient technological efforts to relieve the pressure.”*

30. OWOP explicitly refers to both protection of the Earth’s life support systems and environmental limits as part of its vision and referred to the need for equitable use of resources. It goes on to set explicit aims, outcomes and targets as a means of delivery. However, both these aspects of SD are absent from this Bill. In consequence, the Goals are less ambitious and clear than its predecessor on OWOP.

31. FG Bill fails to make living within environmental limits an overarching goal and a common aim and therefore cannot be considered to be delivering SD.

32. We would suggest that the goals are amended as follows:

**Goal 1: A prosperous Wales.**

33. This goal must be amended to include

- the need for a prosperous wales to reduce its use of resources to operate within environmental limits
- to address the issue of equitable access to resources and the
- UN SD goal of sustainable consumption and production

34. Such an amendment would bring this goal into line with its predecessor in OWOP which included the goal of ‘living within environmental limits, using only its fair share of the earth’s resources so that Ecological Footprint is reduced to the global average availability of resources’.

35. We consider the Goal’s use of the words ‘proportionate use of resources’ is vague, it is not proportionate in relation to anything and is therefore open to wide interpretation.

**36. WWF suggests that the Goal be reworded to include the notion of living within environmental limits and a fair share of the earth’s resources– for instance, by reference to**

**“A more sustainable, efficient and proportionate share of resources within the limits of the carrying capacity of nature, nationally and globally.....”**

**Goal 2: A resilient Wales**

37. WWF is pleased that this seeks to address the health of the natural systems within Wales, although it makes no mention of the impacts we have on natural systems in other parts of the world.

38. This is important because people in Wales now, and in the future, are reliant on imports of goods and materials from abroad. Additionally, we are reliant on global processes, such as climate. Therefore, anything which affects the availability of those resources (for example a shortage of freshwater) or the health of the ecosystems on which we all depend (for example, the ability of forests to absorb carbon) or the functioning of global systems (such as climate change) will have an impact on our ability to meet our current needs and those of future generations. This is the principle of ‘living within environmental limits’, to which Brundtland refers.

39. We are broadly content with the drafting of Goal 2 save for the omission of its reference to international impacts. See Q3 for how this could be remedied.

### Scale of change

40. The goals, whilst aspirational, are generic and fail to give a sense of the scale of change that is required to become a sustainable Wales, which can meet the needs of future generations as well as present ones. In terms of a sense of the scale of change, it appears to us that most public bodies could read the goals and honestly state that they were working towards these already in some way. Therefore they may easily believe that they are doing all that is required and business as usual is OK.
41. OWOP addresses this challenge by stating a goal such as 'Wales will use only its fair share of earth's resources' and then setting some clear aims such as stabilising ecological footprint by 2020.
42. This OWOP approach is similar to that being adopted by the UN in regard to Sustainable Development goals where there is an overarching broad goal, with several SMART objectives under each, which include a measurable target and time frame which helps to qualify what the goal requires to achieve it. e.g. 'By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day.
43. **WWF recommends this Bill should include a requirement to set targets in relation to the goals and set SMART objectives, (containing targets) on which performance can be measured.**

### **Objectives: sections 7-8**

44. Sections 7 and 8 of the Bill outline the key duty / requirements on how the public bodies' objectives will be set and the way in which they will be delivered / operationalized
45. Section 8 outlines the process for delivering sustainable development. However, WWF is concerned that the issues to be taken into account by public bodies listed within section 8 (2) (a)-(e) appear to re-define the meaning of the SD principle in a more limiting way than in Section 3.
46. In our view, the issues to be taken into account in section 8 (2) do not include all of the matters typically considered as part of the delivery of SD such as the need to base decisions on scientific evidence and the precautionary principle..

WWF also takes issue with the phrasing used for the various criteria as follows:

47. Whilst we commend the inclusion of the requirement to safeguard the ability to meet 'long term needs' in 8.2 (a), the explanation of this term in the EM provides only social needs 'Long term' requires the recognition that environmental limits or that the earth's carrying capacity is not breached, in order for societies to continue to sustain the resources needed for the wellbeing of future generations. This issue is at the heart of wellbeing of future generations and without it the Bill will fail to deliver meaningful sustainable development.
48. We consider the use of the phrase within 8 (2) (a) of '**balancing**' the short term needs with the need to safeguard the ability to meet long term needs is incompatible with ensuring that the 'needs of the present are met *without compromising* the ability of future generations to meet their own needs'. The notion that certain short-termist decisions may affect the ability of future generations to live a life of similar quality and standards as today's society is at the heart of SD. However, achieving a

balance allows a public body to exercise their discretion unfettered by an obligation to future generations. This goes to the heart of the Bill's FG purpose.

**49. WWF suggests that either there is a separate clause in this section or that Section 8(2) (a) is amended by adding “including, in the case of the climate, ecosystems the environment and natural resources, such an effect outside Wales”**

50. Section 8(2) b should be strengthened the requirement to integrate in line with OWOP, which states ‘ensure that all decisions **take into full account of, and where possible fully integrate**, the various social, economic and environmental outcomes that are being sought’ .

**2c the approach to measuring progress towards achieving well-being goals and reporting on progress;**

51. WWF considers that measuring progress of public bodies in the pursuit of SD is crucial to the effective delivery of SD.
52. Under the current scheme for delivery of SD the Welsh Ministers must set indicators that can be used to measure the delivery of SD. However, there is clear evidence that this approach has failed.
53. The Welsh Audit office<sup>6</sup> report stated that “Nor do ... Government’s performance management systems enable it to track its progress.....there is little evidence that these [SD indicators] have been actively used in policy appraisal”. In numerous SD Annual reports the Commissioner for Sustainable Futures has raised his concerns about this failed approach by WG in measuring progress. The AG has noted that there is ‘the need to understand both how they (indicators) have influenced policy and the impact of policies on the different measures, such as the response to the issues raised in last year’s State of Nature report.’<sup>7</sup>
54. Nothing in the FG Bill addresses the problem that high level SD (or wellbeing) indicators, at an all Wales scale, have failed to drive change.
55. WWF considers that the Bill needs to be significantly strengthened in this respect. We would wish to see a link made between the wellbeing indicators (section 11) and target setting, to the setting of individual organisational objectives and quantifiable performance measures.
56. The Bill should require Welsh Ministers to set targets at the same time as indicators, in respect of matters relevant to the well-being goals. A duty to take into account these targets and indicators should also be placed upon public bodies when setting objectives
57. Ministers could also be required to introduce, through regulations, the matters upon which targets will be based, for example, to be based on relevant science / advice given in the Future Trends Report and a requirement to include matters such as greenhouse gas emissions.

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<sup>6</sup> Ibid. Paragraph 22, page 12

<sup>7</sup> The Sustainable Development Annual Report 2013-14 p.8

## **2d The establishment of a Future Generations Commissioner for Wales, the Commissioner's role, powers, responsibility, governance and accountability;**

58. WWF fully supports the idea of the appointment of a Commissioner for Future Generations. Other Commissioners in Wales focus on the interests of particular social groupings and a Commissioner who can champion the interests of future generations is a worthwhile addition.

### General duty and powers

59. In the White Paper in 2012, the Government proposed that the Sustainable Development body (now FG Commissioner) should have powers to be an independent advocate for SD and be capable of 'constructively challenging' organisations on their delivery of SD'. The White Paper considered accountability as a crucial aspect of providing for an effective governance framework for SD and considered it essential that organisations were made accountable.(para 5.2)
60. In particular, the White Paper considered it necessary for the FG Commissioner to have both a 'supporting' and 'monitoring' role but not to duplicate existing audit bodies' role.
61. Inexplicably, the FG Bill provides no such powers and duties upon the FG Commissioner or upon the Auditor General for Wales (AGW). The FG Commissioner retains the weak power to make recommendations in section 20. However, this provision allows public bodies a wide exemption from compliance.
62. Equally, the White Paper argues for the AGW to play a key role in the accountability of public bodies. It states that WG intend to place a duty on the AGW (para 5.5) to include an examination of how organisations have embedded SD as their central organising principle in relation to this duty. Unlike the FG Commissioner, the AGW's powers to examine would be focused upon the systems and processes established by public bodies to govern the making of their strategic decisions when embedding SD in their planning. However, the FG Bill is silent on the AGW's role.
63. WWF agree with the conclusions in the White Paper (and with the Government's reference group) that accountability is central to embedding SD as a central organising principle
64. We suggest therefore the following amendments:
- A duty is placed upon the AGW as cited above
  - That the AGW must inform and consult with the FG Commissioner about any such examination
  - And that the AGW and FG Commissioner may co-operate with one another in relation to any such examination
  - That the FG Commissioner is given the additional powers of enforcement, akin to those of the Children's Commissioner, in the following ways:

- i. Where scrutiny by the AGW leads to a finding of 'systemic failures' by a public body to deliver SD the FG Commissioner shall have power to examine the matter by way of reviewing and monitoring the effects of policies and systems, including the power to hold an inquiry, require information from agencies etc.. and call witnesses
- ii. Where scrutiny by the AGW finds a serious lack of compliance (but less than systemic) that the FG Commissioner has a power to challenge the current practice of the public body by conducting its own investigation and seeking compliance with its Recommendations
- iii. That the FG Commissioner has power to make recommendations for a public body to deliver a plan to bring about compliance, made under section 20 of the Bill and such recommendations must be taken into account by the relevant public body.
- iv. A power (analogous to and of the same status as those of other Commissioners) to require people to give evidence and produce documents, backed with sanctions for non-compliance. At the very least, clause 19(4) should be amended so that there is an obligation on a public body to comply with the Commissioner's request for information

### Independence

65. In order for the FG Commissioner to act both as champion of future generations and to constructively challenge public bodies it is vital that his appointment is sufficiently independent and is seen to be so publicly.
66. This is not the case, however. Current proposals curtail such independence, by requiring appointment by Welsh Ministers, instead of by the democratic will of the Assembly. Also, the shortness of the term of office (3- 5 years) and by the role of Government in deciding on an advisory body and appointing its membership.
67. *We recommend that the Commissioner:*
  - *Is appointed by the Assembly*
  - *Should have a term covering a least one cycle of production and review of the future generations report i.e. 5 years or more, preferably 7.*
68. The requirement for the Commissioner (unlike his existing counterparts) to have an advisory panel, as specified by government, seems unjustified and unsatisfactory. The panel is biased to representatives of the social aspects of SD and does not give the Commissioner the freedom to appoint expertise from across the range of aspects of SD (as recommended by the Bill reference group). WWF believes the function of the panel should be to provide a source of expertise and support. Therefore, the Act should not specify specific members but the criteria for appointment.

### **3.How effectively the Bill addresses Welsh international obligations in relation to sustainable development**

69. Principle 21, Stockholm Declaration has been described as 'the cornerstone of international environmental law'<sup>8</sup>. Principle 21 states that:
 

‘States have, in accordance with the charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure

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<sup>8</sup> Sands, Principles of International Environmental Law, Second Edition, Cambridge

that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.’

70. It was confirmed by the ICJ’s 1996 Advisory Opinion that Principle 21 reflects customary international law.
- 71. WWF consider that it is essential that the FG Bill reflects the principle that States are subject to environmental limits in the exercise of their rights and that they have a responsibility not to cause damage to other States.**
72. This inherent link between the wellbeing of Wales and damage to global natural resources was acknowledged in OWOP but has been excluded from this Bill.
73. Principle 21 has been developed in other environmental agreements establishing more specific and detailed obligations, such as the rules developed in the Climate Convention and Kyoto Agreement and in the Convention on Biological Diversity.
74. Since the initial Brundtland report through the Rio Declaration and the Rio +20 Outcome document Principle 21 has been enshrined in the understanding of sustainable development. Now the UN is working on a set of Sustainable Development Goals (SDGs). The Minister has expressly stated he wishes the Bill to be compatible with the emerging SDGs and to ensure we are not ‘doing harm to our neighbours’
- 75. The Government’s Reference Group also advised the Minister that the environmental and global impacts were often given insufficient weight (in decision making) compared to more local and immediate concerns.<sup>9</sup>**
76. Although the process for developing SDGs is currently ongoing we consider that the Bill must take the opportunity to clarify Wales’ global responsibilities and to ensure that public bodies take into account in their decision making the potential for environmental damage to our global neighbours, particularly in the areas of climate and biodiversity.

We have already make explicit suggestions to amend Goal 1, Section 8.2 and the addition of targets. Additionally we recommend the following:

- 77. Ensure statutory guidance is clear on leadership, accountability, processes and ownership, including in regard to the evidence and advice to public bodies, regarding international environmental impacts, as recommended in the reference group advice to the Minister.**
- 78. Require Government to review the goals in the light of UN (or international) agreements, particularly in regard to UN SDGs.**

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<sup>9</sup> Advice note from FG Bill reference group **RE: Environmental Limits and SD decision making to Minister for Local Communities and Tackling Poverty**. January 2014

#### **4. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;**

##### 4.1. Evidence

79. A key issue highlighted by the Government's reference group is the availability of evidence and advice, particularly regarding environmental impacts, and at the appropriate scale for the public body concerned. This relates to a general concern as to the availability of expertise within the various public bodies on aspects of SD which are not their core remit.
80. The Reference group recommended "It would be helpful if the legislation set out who is responsible for providing the most up to date advice, after assessing evidence and commissioning research"<sup>10</sup>. We suggest these can be partly addressed through specifying further content for the Future Trends report and clarifying the responsibility for the provision of the evidence base, at the correct scale.
81. This relates to a further key issue in regard particularly to environmental impacts at a global scale. There needs to be clarity on whose role it is to provide advice on emerging science *and* tailor advice on this to the public bodies. The public bodies must also "Note that this lack of data and evidence also applies to social and economic elements and decision making for the long term must include dealing with uncertainty. Consideration must therefore be given to the weight applied where there is uncertainty. A risk based approach seems to be favoured by Local authorities."<sup>11</sup>
82. We note that the precautionary principle, which is one of the SD governing principles in OWOP, has been omitted from the FG Bill and yet is crucial to the governance approach required by existing EC legislation.

##### 4.2 Capacity of FG Commissioner and relationship to others.

83. WWF have some concerns that the potential scale of the role of the Commissioner is not matched by sufficient resources to deliver effectively. SD is a very broad remit and will require expertise across a broad range of areas. The role in advising and monitoring well over 50 organisations (without considering the various departments of government), as well as conducting an effective National conversation will require considerable time. Additionally, the Commissioner will have to collaborate with many other organisations to gain the evidence s/he needs for the Future Generations report. Without sufficient capacity the role will be ineffective.

##### 4.3 Accountability and availability of remedy

84. The reference group recommended "There is a need for clarity on accountability in decision making that addresses key responsibilities through clear duties and powers and which offer incentives and sanctions for non-compliance."
85. This Bill is silent on any remedy for non-compliance or under-performance.

**Anne Meikle, Head, WWF Cymru. 05.09.14**

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<sup>10</sup> ibid

<sup>11</sup> ibid

September 2014



**Consultation on the Well-being of Future Generations (Wales) Bill  
Response by Friends of the Earth Cymru**

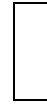
**Introduction**

1. Friends of the Earth Cymru is part of Friends of the Earth England, Wales and Northern Ireland, and supports a unique network of local campaigning groups working in communities throughout Wales. Friends of the Earth Cymru inspires the local and national action needed to protect the environment for current and future generations, and believe that the well-being of people and planet go hand in hand.
2. We welcome the opportunity to respond to the general principles of the Well-being of Future Generations (Wales) Bill and hope that we can assist the committee in developing this draft legislation into a truly ground-breaking, strong and effective law.
3. Despite an ever increasing recognition of sustainable development and sustainability since the original Rio Earth Summit in 1992, there has not been a step change in our behaviour, legislation or institutional structures, and the global actions of the past 22 years have created a state of unprecedented planetary emergency. There is an urgent need for humanity to shift course, and put the needs of the Earth and future generations above short-term gain. This will mean charting a course away from current values and expectations, developing societies and economies that support life and the Earth beyond the end of this century.

**Consultation questions**

**How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector;**

4. We strongly support having legislation to embed sustainable development and welcome the original intention and ambition of the Welsh Government to *“Legislate to make sustainable development the*



*central organising principle of the Welsh Government and public bodies in Wales.”<sup>1</sup> and for Wales “To become a ‘one planet nation’, putting sustainable development at the heart of government”<sup>2</sup>.*

5. The Welsh Government’s commitment to the international Rio+20 process going forward, and the UN Sustainable Development Goals, is a clear indication of the political will to set ourselves at the forefront of the international context and we fully support the Environment Minister’s original aim of achieving “*ground breaking legislation on Sustainable Development*” and to “*make our legislation as strong and effective as possible*”<sup>3</sup> and continue to hope that this is what will be accomplished.
6. We are part of the Sustainable Development Alliance who set out its own proposals on how this could be done last year<sup>4</sup> and continue to believe that a simple structure of setting a clear definition of what sustainable development means in Wales, a substantive duty on public bodies to exercise their functions so as to achieve sustainable development, and an independent Commissioner to hold them to account should be the basis for legislation.
7. However as we are now dealing with a published Bill we will primarily comment on the proposals in front of us and how we can move from where we are to a strong and effective piece of legislation relating to sustainable development.
8. It is of concern that the scope of the Bill seems to be limited to governance arrangements and impacts on well-being solely within Wales.
9. Despite Sustainable Development being the central organising principle of the Welsh Government, and a duty since its inception, the Wales Audit Office assessed in 2010 that it has not been integrated into financial and business planning: “*Sustainable development principles have not been consistently embedded in the Assembly Government’s strategic and operational decision making. The Government of Wales Act 2006 commits the Assembly Government to ensuring that all its funding works for sustainable development. However, sustainable development is not driving resource allocation nor is it integrated into all financial and business planning processes. The Assembly Government has not ensured that all its grant giving underpins its vision of a sustainable future.*”<sup>5</sup>
10. To address this failure, the Wales Audit Office recommended to “*Embed sustainable development in the Assembly Government’s governance procedures, financial planning, core business planning processes, change programmes and human resources processes.*”<sup>6</sup>.
11. This underlines our belief that the Bill should be about all the functions of public bodies, not only governance. There has to be an impact on decision making, particularly financial decisions and procurement for sustainability to be at the heart of the public sector. The duty must apply to public

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<sup>1</sup> Welsh Government (2011), ‘Programme for Government’ p.43

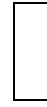
<sup>2</sup> Ibid, p.42

<sup>3</sup> Written Statement by the Welsh Government, ‘Visit to Rio+20’, Minister for Environment and Sustainable Development, 29 June 2012

<sup>4</sup> <http://www.shapingfuturewales.org/en/our-proposal/>

<sup>5</sup> Welsh Audit Office (WAO), (2010), ‘Sustainable development and business decision making in the Welsh Assembly Government’, p.11

<sup>6</sup> Ibid, p.13



authority functions so as to capture the way a public authority delivers its services and its procurement activities.

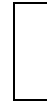
12. Our concern for well-being should not stop at Wales' borders and it is vital that Wales acts as a global citizen to promote justice and drive down extreme inequality in the world, in so far as public bodies in Wales have an impact on people outside our borders through our actions. We will expand on this in response to subsequent questions.
13. Welsh Government Ministers have said that the intention of this legislation was to set an over-arching duty on public bodies, rather than an additional duty that's considered as one of many competing duties. Currently we have a piecemeal approach towards considering sustainable development in decision making with, for example, projects going ahead on economic grounds despite overwhelmingly negative environmental impacts. Therefore the Bill must be clear that all elements of sustainable development must be met, and that the duties in this legislation are the framework within which all other duties are considered.
14. Although there are positive components to this Bill, we believe that the Bill as a whole as it currently stands has too many pitfalls and weaknesses to stand up to the claim of being ground-breaking or truly ambitious.

### **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;**
15. 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” (Section 8(2)).
  16. We continue to believe that having a definition in law is essential for clarity, longevity and certainty. It will give direction to public bodies relating to this Bill and to ensure consistent interpretation of terms across the body of Welsh legislation.
  17. We would seek clarity whether the “common aim” is an overarching aim for public bodies, as was the original intention of the government, rather than one of many competing aims. We also believe that all four pillars of sustainability – economic, social, environmental and cultural – should be included in this section.
  18. The “common aim” proposed in Section 2 and indeed the purpose of the Act in Section 1 only allows for consideration of the “well-being of Wales”, not the impacts Wales has on the wider world. We believe that this must be amended.
  19. The wording of Section 3 is a short and weakened version of the definition of sustainable development from the 1987 Brundtland Report<sup>7</sup>. It is essential that it is strengthened and the use of limiting language

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<sup>7</sup> World Commission on Environment and Development (1987). *Our Common Future*.



such as “seeking to” as opposed to achieving must be avoided. We also believe that the concept of sustainable development has moved on substantially since this time, not least with the UK Sustainable Development Strategy’s five guiding principles of sustainable development<sup>8</sup> and in Wales with the definition in the current Sustainable Development Scheme “One Wales: One Planet”<sup>9</sup>. This is therefore a backwards step from having a comprehensive definition relevant to Wales and the world in the 21<sup>st</sup> century.

- **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;**

20. The approach taken in the Bill seems a convoluted multi-layered process which overcomplicates what is required from public bodies and is likely to weaken implementation. There is no clear single and substantive duty on public bodies, and elements that have to be considered include the purpose, common aim, sustainable development principle, well-being goals and the elements in section 8(2).

21. The wide range of limiting and conditional terminology in different sections such as “seeking to ensure”, “pursue”, “seeking to achieve”, “take all reasonable steps” and “take into account” further dilutes and complicates the approach. Clarity, and the effectiveness of the legislation, is reduced with every section.

22. We would prefer to see a simpler architecture - a clear and substantive duty on public authorities to achieve sustainable development in all their functions, which is backed by stated outcomes and measurable targets, as previously set out in paragraphs 6 & 11.

### Goals

23. We welcome the intention to lay out clear outcomes within legislation through the goals, and welcome the National Conversation ‘The Wales We Want’ which was intended to contribute towards the formulation of these goals.

24. We believe some changes are necessary for the goals to be comprehensive and to fully reflect what a sustainable Wales would entail.

25. Comparative and relative wording for goals such as “a more equal Wales” are too weak and should be replaced by wording which is specific and measurable.

26. The global climate, environmental limits and global resources are surprisingly absent from the goals and descriptions of the goals. This should clearly be amended for the Bill to be meaningful.

27. Tackling climate change is vital to ensuring the well-being of present and future generations. The interim ‘The Wales We Want’ report identified climate change as being the most critical issue for the well-being of future generations<sup>10</sup>.

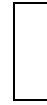
28. In a survey of public perceptions of climate change in Wales published by the Climate Change Consortium of Wales in 2013, 84% of respondents were concerned about climate change, 73% of respondents agreed that Wales should aim to set an example to the outside world when it comes to

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<sup>8</sup> <http://www.defra.gov.uk/publications/files/pb10589-securing-the-future-050307.pdf> p.16

<sup>9</sup> <http://wales.gov.uk/docs/desh/publications/090521susdev1wales1planeten.pdf> p.8

<sup>10</sup> An interim Report from the pilot National Conversation on ‘The Wales We Want’, July 2014, p.25 & 26



addressing climate change, 80% were concerned about the effects of climate change in developing countries and 90% were concerned about the effects on wildlife and the natural world. A clear majority of respondents also said they would be willing to vote for politicians committed to climate change.<sup>11</sup>

29. Successive global summits, academic reports and all parties in the Assembly agree that climate change is one of the biggest challenges facing the world in the 21st century and we must take immediate action to tackle this. Otherwise we face environmental, economic, cultural and social impacts which will affect future generations, and disproportionate impact on people in poverty within Wales and across the globe. The recent IPCC reports confirm not only unequivocally the science of climate change "warming of the climate system is unequivocal", and "most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations"; it tells us what we need to do to keep us within safe temperature rise of 2 degrees Celsius to mitigate against some of the worst impacts of climate change.
30. Although sustainable development is of course wider than climate change any development we achieve will not be sustainable unless we tackle climate change. A key test of the efficacy of the Well-being of Future Generations Bill will be how it will drive the reduction of our emissions in Wales - both our territorial and consumption emissions.
31. The goals do not recognise or address our international impacts. This issue is not confined to the goals but must be included throughout the Bill to make clear that those issues which public bodies can impact such as fairtrade and ethical procurement of goods and services will be addressed. In the goals a reference could be made to Wales using only its fair share of resources and avoiding adverse international impacts.

#### Sustainable Development Principles (Section 8(2))

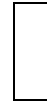
32. Section 8(2) sets out some very important principles, many of which stem from the 1992 Rio Declaration on Environment and Development<sup>12</sup>, such as the preventative principle and long termism. These are a crucial part of taking a sustainable development approach to decision making and form part of the definition of sustainable development agreed by the Sustainable Development Alliance<sup>13</sup>. If these are to remain in a separate section from a definition or the goals there must be a clearer link than for public bodies to "take into account" – these are key principles which have to be central to the application of sustainable development.
33. We believe the principles outlined in this section are incomplete but can be built upon and further clarified – a basis of sound science or evidence base for decision making, the precautionary principle, the polluter pays principle and a stronger emphasis on good governance should be added. The Bill should also reflect and enhance the provisions within the Aarhus Convention on access to information, public participation and access to justice in environmental decision-making. This is an ideal opportunity to embed widely recognised principles into Welsh legislation.
34. "Long term needs" must also relate to global ecosystems and impacts outside Wales.

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<sup>11</sup> Capstick, S.B., Pidgeon, N.F., and Whitehead, M.S. (2013). 'Public perceptions of climate change in Wales: Summary findings of a survey of the Welsh public conducted during November and December 2012'. Climate Change Consortium of Wales, Cardiff.

<sup>12</sup> <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>

<sup>13</sup> <http://www.shapingfuturewales.org/en/our-proposal/> clause 2



- **The approach to measuring progress towards achieving well-being goals and reporting on progress;**

35. There is quite a gap between public bodies writing their own well-being objectives designed to “maximise its contribution to the achievement of the well-being goals” based on the multi-layered set of considerations previously outlined, and the actual achievement of those goals.

36. It should not be up to public bodies to decide not to follow a Commissioner’s recommendation because they are satisfied there is good reason not to do so (Sections 19-20). As well as undermining the Commissioner’s role this is not an approach that will lead to the goals being met or set the right culture for public bodies.

37. It is not at all clear how progress will be achieved or ensured, with no legal redress and a lack of effective scrutiny mechanisms.

38. Whilst national indicators in themselves are useful for showing progress, or lack of, it is not in itself a way of ensuring progress is made, as we know from the current Sustainable Development Indicators.

39. One way of measuring progress on the well-being objectives is if there is a requirement in the Bill for public bodies and Welsh Ministers to set targets (in Sections 7 & 9). The Bill should set out some key areas that must be measured and timeframes for progress, such as targets for reduction in climate change emissions.

40. In January 2013, the UK Committee on Climate Change published a report on ‘Progress reducing emissions and preparing for climate change in Wales’<sup>14</sup> which stated, “Our conclusions from this analysis are setting a statutory underpinning to Wales’ climate change targets could help to provide certainty to policy-makers, businesses, investors, and wider society in Wales and strengthen incentives to reduce emissions”. It saw the forthcoming Well-being of Future Generations Bill as a key opportunity to achieve this. We support this conclusion and recommend that the Bill would be an opportune and appropriate place to include statutory climate change targets.

41. The One Planet approach of measuring ecological footprints, in line with the current sustainable development scheme and including assessing the use of land, materials, water and carbon, should be part of annual well-being reports or other systems for monitoring and reviewing.

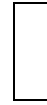
- **The establishment of a Future Generations Commissioner for Wales, the Commissioner’s role, powers, responsibility, governance and accountability;**

42. We strongly support the establishment of an independent Commissioner who should be a powerful champion for future generations, people in developing countries and those living in poverty in Wales – all of whom are impacted by unsustainable development.

43. The independence of the Commissioner’s role as outlined in the Bill and Explanatory Memorandum is questionable on a number of levels under the current proposals. In particular we would highlight the following issues;

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<sup>14</sup> [http://www.theccc.org.uk/wp-content/uploads/2013/01/1673\\_Welsh-Rep-2013FINALWEB.pdf](http://www.theccc.org.uk/wp-content/uploads/2013/01/1673_Welsh-Rep-2013FINALWEB.pdf)



- Appointment – In order to hold the Government and public sector in Wales to account the Commissioner should be appointed by the Assembly and not the Government.
- Workplan, budget, and staffing of the Commissioner’s office – it is not appropriate for such operational areas of the Commissioner’s office to have to be agreed by Welsh Ministers.
- Advisory panel – it is not acceptable that Welsh Ministers would appoint any additional members.

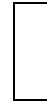
#### Lack of powers and limited remit

44. The remit of the Commissioner should be broadened to reflect the purpose of the legislation as set out in Section 1. The Commissioner should have a general duty to act in the interest of future generations.
45. The Commissioner should be both empowered and required to investigate and take action on failures by government and public bodies to comply with the provisions of the Bill, and more widely to protect the interest of future generations.
46. The Commissioner must also be adequately resourced, with a staff able to support a significant programme of work including; research, policy development, support for the public sector in developing effective objectives and investigative capacity to hold the devolved public sector to account.
47. In terms of powers we believe the Commissioner should be given the power of investigation, including requiring bodies to provide evidence for its inquiries.
48. We believe that the Commissioner should be able to take complaints and act as an ombudsperson with regard to the discharge of the Bill’s provisions by public bodies, similar to the current Children’s and Welsh Language Commissioners.
49. The Bill is not specific about the role of and relationship with the Wales Audit Office and Auditor General, and how monitoring and auditing will be carried out. As a minimum there should be a clear duty of collaboration between the Commissioner and the Wales Audit Office set out in this Bill.
50. Whilst we welcome the inclusion of giving advice to Welsh Ministers on climate change within the Commissioner’s functions, this is the only place in the Bill that climate change is mentioned, and it’s not clear how this related to the various levels of goals, aims and principles. We recommend that this function be kept but that it is made clear elsewhere in the Bill that tackling climate change is a key part of sustainable development and the duty on public bodies.
51. It’s not clear what is expected of the Advisory Panel. External expertise will be needed but it’s not evident how the proposed panel membership would cover the scope of advice required by the Commissioner, what scale of input they could have given their own existing statutory functions or what level of support would be provided.

#### **The establishment of statutory Public Services Boards, assessments of local Well-being and development / implementation of local well-being plans.**

52. We have no expertise in this matter therefore do not wish to comment. It does seem that this Bill has become principally about public administration rather than sustainable development.

#### **How effectively the Bill addresses Welsh international obligations in relation to sustainable development;**



53. The Bill as currently drafted does not mention our international obligations at all. This is a surprising omission, and a step backwards from the White Paper proposal that was itself criticised for being too weak a commitment to global impacts.
54. The Welsh Government's White Paper which preceded this Bill stated: *"The Welsh Government recognises the need to take into account the impacts outside of Wales given that Wales' wellbeing cannot be seen in isolation. This is an important part of a sustainable development approach. The Welsh Government will look to ensure that this element is encompassed within the framework for sustainable development in Wales, in a reasonable and proportionate manner and within the scope of the legislative competence of the Assembly."*<sup>15</sup>
55. The Bill should explicitly recognise and give regard to the positive and negative impacts that Wales has on people and the environment internationally, e.g. through consumption of resources, the supply chains of the Welsh public sector including products and services procured, the activities of Welsh businesses abroad, the impacts of carbon emissions produced in Wales and the support provided for projects overseas.
56. Wales cannot be a sustainable nation without recognising and dealing with its impacts beyond its borders. We have outlined suggested areas where this should be amended in paragraphs 12, 18, 26, 30 & 31.

**Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;**

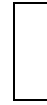
57. We believe the complexity of the architecture of the Bill to be a barrier to effective implementation of the Bill, as we have already explained in paragraphs 20-22.
58. Some other possible barriers are;
- A lack of effective scrutiny mechanisms;
  - The lack of remedy and redress if objectives are not met, if there is insufficient progress towards meeting the goals or incorrect interpretation of a requirement;
  - An under-resourced Commissioner's office with lack of capacity and expertise;
  - A lack of data and knowledge within public bodies to carry out necessary assessments and prepare well-being objectives;
  - A Commissioner with weak powers who will not be able to hold the government and public bodies to account.

**Whether there are any unintended consequences arising from the Bill;**

59. There is a risk of confusion around the terms "well-being" and "sustainable development" in Welsh law if there aren't clear definitions in this Bill which is both consistent with existing legislation such as the Social Services and Well-being Act and will be referred to in forthcoming legislation such as the Planning Bill and Environment Bill.

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<sup>15</sup> Sustainable Development Bill White Paper, December 2012 <http://wales.gov.uk/docs/desh/consultation/121203asusdevwhitepaperen.pdf>



**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);**

60. We have no comment other than the office of the Commissioner should be sufficiently funded to meet its duty and functions, in line with comparative Commissioners in Wales.

**The appropriateness of the powers in the Bill for 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 Welsh Ministers to make subordinate legislation).**

61. The goals set in legislation should only be amended by the Assembly rather than by Welsh Ministers. As well as providing additional scrutiny, this would ensure a level of certainty for those public bodies operating towards achievement of the goals.

National Assembly for Wales  
Environment and Sustainability Committee  
WFG 21  
Well-being of Future Generations (Wales) Bill  
Response from RSPB Cymru's



**Evidence submitted by RSPB Cymru to the Inquiry of the Environment and Sustainability Committee into the general principles of the Well-being of Future Generations (Wales) Bill**  
September 2014

*RSPB Cymru is part of the RSPB, the country's largest nature conservation charity. The RSPB works together with our partners, to protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations. The RSPB has over 1 million members, including more than 51,000 living in Wales.*

1. Introduction

- 1.1 RSPB Cymru welcomes the Well-being of Future Generations (WFG) Bill as an important further step on the road to a more sustainable Wales. However, as it stands the Bill needs strengthening and greater clarity before it can be read with confidence as a legal delivery mechanism for sustainable development (SD). We therefore welcome this opportunity to submit evidence to the Environment and Sustainability Committee stage 1 scrutiny of the legislation. We would welcome the opportunity to elaborate on the issues outlined in this paper in oral evidence sessions.
- 1.2 This legislative approach to moving forward with SD in Wales helps build on *One Wales: One Planet*. It is indisputable that the pace of movement towards sustainable living has been slow; the introduction of a legal requirement for public bodies should help to accelerate the overall pace of change. Whilst business (including commercial, agriculture, fisheries, etc), industry and individuals will not be directly governed by the Bill, it is to be expected that their links to government and public bodies will ensure that the principles of thinking and living sustainably will have a broader reach.
- 1.3 Sustainable development is recognised in *One Wales: One Planet* as the 'central organising principle' for government in Wales, not only for now but indefinitely into the future. The wording and provisions within the WFG Bill must therefore be sufficiently robust to ensure continued delivery of SD despite external changes in the future. We must also ensure we have a robust and considered set of well-being goals which meet the future aspirations we have for our county.
- 1.4 Whilst the aims of the legislation are laudable it must inevitably lead to a change in how Government conducts its business if it is to deliver on its aspirations. For example, it is worth considering how a project such as the M4 might have been approached had this legislation already been in place. In other words what difference might the Bill make to fundamental issues of policy and decision-making? It is with this consideration in mind that we approach the Bill and in our evidence, we propose where changes may need to be made to truly achieve SD for the well-being of the current and future generations of Wales.
- 1.5 We are not clear what the date for full commencement of the provisions are within the legislation and would recommend a commitment is included in the text of the Bill itself.

## 2. Well-being Goals – A Resilient Wales

2.1 Under the new legislation, public bodies are required to seek to achieve six well-being goals, which, taken together, represent in effect the sustainable development duty. The goals are fundamental to the general principles of the Bill as they set out the general direction towards our vision for a sustainable Wales. It is therefore vital that we ensure the goals reflect a truly sustainable Wales.

2.2 The ‘common aim’ referenced in Part 1 Section 2 of the Bill rightly lists the environment alongside the economy and society, as is fundamental under the SD principle. The health of the environment is central to human well-being (social and economic) – sustainability, therefore, starts with the environment.

2.3 In particular, we are pleased to see the goal relating to the natural environment: “A resilient Wales”. In order for ‘A resilient Wales’ to fully meet the requirement set out in Part 1 Section 3 for the ‘sustainable development principle’, ie meeting the needs of future generations as well as of present generations, we believe a small addition to the present text is required to strengthen it.

2.4 The wording in the current descriptor of the goal requires improvement to clarify that we wish to see a restored and thriving natural environment in the future. We would therefore recommend that this is made explicit in the text that we are seeking “restored and enhanced,” biodiversity and, to this end, we propose the insertion of the wording as follows (additions in bold) : ‘A biodiverse natural environment is **restored and enhanced**, with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change...’. This qualification is consistent with the comparative wording used for ‘A healthier Wales’ and ‘A more equal Wales’ well-being goals.

2.5 The Explanatory Memorandum to the Bill (paragraph 81) acknowledges the findings of the *State of Nature* report. This health check of UK wildlife which was published last year, highlighted the serious extent to which biodiversity in the UK and Wales has declined in recent decades. Of more than 3,000 species assessed across the UK, 60% were found to have declined over the last fifty years, with 31% having declined strongly.

2.6 Species declines in Wales, include:

- Numbers of breeding upland wading birds, such as curlew, lapwing and golden plover, have declined by more than three-quarters in recent decades.
- More than one in seven plants in Wales are considered threatened. Wildflowers, especially arable flowers such as the small-flowered catchfly and corn buttercup, continue to decline and have a smaller range now than at any other time in recent decades.
- 63% of Welsh butterflies are declining. More than three-quarters of Welsh pearl-bordered fritillaries have been lost. While a third of all widespread Welsh moths are severely declining.

2.7 The primary cause for the decline in species is down to habitat decline as a consequence of our unsustainable way of life, the impact of climate change on the location and range of species will also grow as we move forward into the century. **The scale of current and continuing loss of both species and habitats is unsustainable, and only serves to point up the need for a clear and unambiguous commitment in the WFG Bill to restoring and enhancing biodiversity in the context of healthy ecosystems**; this will be an important feature of a sustainable future for our children and grandchildren. In turn, such a provision can form the basis for appropriate measures to be included in the forthcoming Environment Bill, and ensure Welsh Government meets its international commitments to halting the loss of and restoring biodiversity.

2.8 Moreover, the suggested amendment, reaffirms the key point that biodiversity has an intrinsic value for itself that is over and beyond its sometime value as a ‘service’ to the human species.

### 3 National Indicators

3.1 We note the commitment in the Bill (Part 2 Section 11) to publishing national indicators designed to measure progress towards the delivery by Welsh public bodies of the well-being goals, with the findings of the various measures to feature in annual well-being reports. **It is vital that such indicators include appropriate measures of progress in the recovery of biodiversity, in support of the resilient Wales goal.** In the development of such indicators Government will need to consult with, take advice from and use the expertise in the sector. We would expect appropriate species and habitats indicators to be developed in relation to the resilience goal and the appropriate links made with the forthcoming Environment Bill.

3.2 We would also expect to find indicators that measure carbon emissions from Welsh sources – and from global, non-Welsh sources, where such emissions are the product of consumption in Wales – the Welsh Ecological Footprint, current details of which, though promised, to date remain unreported. The commitment in ‘A prosperous Wales’ to the use of resources will also require appropriate indicators.

### 4 Powers of Ministers to amend the Well-being goals by regulation

4.1 We note that the Bill – in various sections – includes provision for Ministers to amend this legislation in the future by subordinate legislation. This includes a proposal in Part 2 Section 6 (3), that Ministers can make changes to the well-being goals in the future by regulation. The Explanatory Memorandum clarifies that this would be through the affirmative procedure. However, we consider that **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.** As noted above, the well-being goals are, in effect, the sustainable development ‘duty’ on public sector bodies and therefore underpin the legislation. Full debate and detailed consideration in the Assembly should therefore be required before any significant changes to goals could be made in the future. Great care is needed, therefore, in relation to the provision for Government to add to, change or remove altogether any of the well-being goals. An appropriate level of scrutiny should precede any decision as this could indicate in a significant policy departure for the legislation.

4.2 As in the Explanatory Memorandum, it would be helpful if the Bill clearly stated in each case which procedure the regulatory changes would follow.

### 5 Objectives and Actions

5.1 Part 2, Sections 7, 8 and 9 set out requirements and procedures concerning the objectives and associated actions that public bodies will be required to follow in order to maximise their contribution towards achievement of the well-being goals. However, it is unclear whether this provision will succeed in capturing every decision and action that public bodies might be required to take over a five year period. These sections provide for public bodies to amend their objectives; however it is not clear whether a public body could then decide to act outside of the provisions in the legislation if the matter in question is not included in its objectives. If this is the case, this would fundamentally undermine the aims of the legislation to achieve a more sustainable Wales. **There is a need for the Bill to include a general statement that all governance decisions and actions of a listed public body should be consistent with the sustainable development principle and with the common aim**, and not just with the published objectives. This proposal is especially important in relation to the policies and decisions of the Welsh Government.

### 6 Living within environmental limits – the sustainable development principle

- 6.1 We note that the Bill does not include a definition *per se* for sustainable development. *One Wales: One Planet*, however, includes a strong wording that encompasses ‘well-being’, as well as making reference both to respecting environmental limits and to using only our fair share of the earth’s resources
- 6.2 These two objectives sit at the very core of sustainable development: the definition of SD given in *One Wales: One Planet* is that it ‘will be the overarching strategic aim’ of all WG policies and programmes. The two objectives are referenced in the Explanatory Memorandum; we would like to see them also reflected in the legislation itself.
- 6.3 At the heart of the drive to live more sustainably is the recognition that the environment and resources of the planet are finite, and yet economies and societies persist in thinking and acting as if this were not the case. We must find ways of sustaining not just ourselves but also succeeding generations, both of humans and of wildlife, as purposed by this Bill; hence the importance of including in the Bill recognition of the centrality of the finite nature of the planet.
- 6.4 The concept of ‘living within environmental limits’ has attracted debate concerning how it can best be understood and applied at the level of organisational decision-making: in some areas, such as greenhouse gas emissions and biodiversity losses from human activities, it is already demonstrably clear that environmental limits are being exceeded, but in others the existence of boundaries or potential tipping points may not yet be so clear. Hence, the fundamental importance of the precautionary principle in our approach to using and managing the environment and its resources more sustainably than we are currently.
- 6.5 **We recommend, therefore, that both ‘living within environmental limits’ and ‘Wales using only our fair share of the Earth’s resources’ be included in the section 3 description of the ‘sustainable development principle’.** Consideration is also needed to the stronger expression ‘ensuring’ rather than the current wording of the principle, which is ‘seeking to’.
- 6.6 We also recommend that space in the Bill be found for referencing **the importance of the precautionary principle** in the governance of public bodies: a separate section might be the best way to give it expression, say as a new section 4 after current section 3.

## 7 Other public bodies

- 7.1 We query why the National Assembly for Wales itself and Further and Higher Education institutions are not listed on the proposed list of public bodies in Part 1 Section 5, to which the Bill is intended to apply.

## 8 The Future Generations Commissioner for Wales

- 8.1 RSPB Cymru welcomes the appointment of a Future Generations Commissioner, but proposes a strengthening of his/her powers and responsibilities beyond those provided for in the Bill. In a number of instances through Part 3, we would suggest the replacement of ‘encourage’ with ‘require’ in the general duty of the Commissioner to promote the sustainable development principle among the public bodies concerned. If legislating for sustainable development and the well-being of future generations is to mean anything then voluntarism must be replaced by obligation and duty. If public bodies believe in particular instances that they cannot comply in their governance with the legislation, they can take this up with the Commissioner. But for the Act to have teeth, **it will be important for the Commissioner to be empowered to overrule a public body, having considered its representations, and require it to act in accordance with the legislation.**
- 8.2 The provision in Part 3 Section 20 of the Bill for a public body (other than an elected body) to choose not to follow the Commissioner’s recommendation on a particular matter, we believe to be flawed. If such a public body believes that it has ‘good reason’ not to follow a recommendation made by the Commissioner, its duty must be to persuade him/her of its case, and be required to

publish the rationale for their decision. **The Bill should not give allowance to a public body to ignore the Commissioner's recommendation whenever it so chooses.**

8.3 Preparation of the Future Generations report will clearly form a major part of the Commissioner's proposed responsibilities, and will be a fundamental document in guiding public bodies in the mainstreaming of SD in their governance. Part 3 Section 22 lists persons and bodies to be consulted by the Commissioner in his/her preparation of the report, and we welcome the inclusion of representatives of Welsh business, trade unions and voluntary organisations, extending views, therefore, beyond the public sector itself. It is to be hoped that the Bill will help to change decisions and behaviour beyond just the listed public bodies, with Government and other public bodies setting sustainability conditions in relation to procurement, contracts and funding. The Commissioner's report will be a major piece of work, and it is welcome that the full report will be debated in the Assembly.

8.4 An apparent oddity in Part 3 Section 18 concerning the Commissioner's functions is the provision in sub-section (1) (a) for him/her to provide advice to Welsh Ministers on climate change. Climate change and its human causes are arguably a core reason for sustainable development, yet this is the only reference made to the issue anywhere in the Bill. We question why climate change been identified here and nowhere else. What are the Government's intentions concerning the future of the Welsh Climate Change Commission and the role in relation to it of the Commissioner? Arrangements will be needed for the Commissioner to seek information and advice from the UK Committee on Climate Change, possibly via the Welsh Government.

8.5 The provision in Part 3 Section 25 sub-section (2) for the Commissioner's term of appointment to be for between three and five years is relatively short given the nature and responsibilities of the post; we note, by contrast, that the Children's Commissioner has a seven-year period of appointment.

8.6 This leads on to consideration of the proposed advisory panel to the Commissioner (sections 24 to 26). As well as the appointees suggested, we would have expected the membership to include specialists in the field of sustainable development, together with the Chair of the Welsh Climate Change Commission, chosen precisely for their expertise. Perhaps this is intended by the provision in (2) (f) for additional appointments to the panel, but **we would suggest that appropriate SD specialists should be appointed.**

8.7 However, a major consideration is that the Commissioner – and the advisory panel – must be seen to be independent of Government, not least because Government itself will be subject to his/her recommendations. We would suggest therefore that the Commissioner, and members of the advisory panel, should be appointed by the Assembly rather than Ministers, and would recommend appropriate amendment to this effect. The Commissioner must be demonstrably at liberty to disagree with the government of the day; this cannot be assured if the appointments procedure enables the Government to appoint someone of its choice and to its liking.

## 9 Public Services Boards

9.1 A major part of the Bill concerns the creation of statutory Public Services Boards (PSBs) and the designated responsibility of such Boards for preparing local well-being plans. It is understood that the new PSBs will build upon the current role of the Local Service Boards, but with an altered membership and role. RSPB Cymru has, of course, a particular interest in the environmental planning and management role that might be entrusted to PSBs and, further, how this might relate to provisions concerning area-based management of natural resources, as outlined in the Environment White Paper earlier this year for the forthcoming Environment Bill, including a reference then to a possible role for LSBs. The aim of each PSB – the 'local aim' - is said to include *inter alia* (section 34 (1)) to improve the environmental well-being of its area in accordance with the sustainable development principle. It is not clear how this role will relate to

whatever structures and processes emerge from the Environment Bill for area-based management of natural resources.

- 9.2 Further, the Explanatory Memorandum (EM) to the Bill says (paragraph 183) that PSBs will be required to address *inter alia* the 'lack of an environmental dimension' in many existing Single Integrated Plans. The EM also says (paragraph 195) that PSBs will link more closely local well-being plans with Local Development Plans, with NRW membership of PSBs to provide a link to proposed area-based natural resource management plans. There seems to be the potential here for several separate but inter-locking local plans and with, as yet, no indication of where responsibility would lie for delivery. We are concerned that what is proposed will blur lines of responsibility for environmental management and improvement. Guidance concerning what is envisaged for the enactment of the Environment Bill would clearly be welcome.
- 9.3 The proposed membership of the PSBs offers very limited representation for the environment, with only the NRW representative there to promote and defend its interests. The EM has noted the lack of an environmental dimension in the thinking, hitherto, of the LSBs, and the proposed membership of PSBs – with its heavy 'social' focus – seems unlikely to overcome this shortcoming. Enhanced representation for the environment can, of course, be delivered in the form of 'invited participants' at the behest of the established members of each board, but this will be a random process. **We would recommend the addition of at least one further environmental member as of right to each PSB, say the local authority ecologist and/or a representative of a local environmental or conservation body.**
- 9.4 The current high number of potential PSBs would put an additional duty upon NRW. In order to ensure NRW is able adequately to represent the environmental interest across all PSBs, Government must ensure the body is resourced to deliver this additional role.
- 9.5 **Non-elected Public Services Boards create a gap between local democracy and accountability for decisions**, notwithstanding provisions in the Bill for two senior local authority representatives on each PSB – only one of who, however, would be elected – and for oversight by the relevant local authority scrutiny committee. Local well-being plans will replace community strategies, and could involve major decisions with only indirect accountability back to elected representatives.

### Community Councils

- 9.6 The provision in section 39 of the Bill for community councils above a designated financial size to have responsibility for meeting objectives included in the local well-being plan raises again a concern about both membership and capacity, especially in relation to environmental management. Members of such councils may or may not have the knowledge, time and capacity to take on the objectives in the local well-being plan relating to their respective areas. It is not clear whether appropriate ecological advice would be available. It is also not evident how community councils will be engaged with PSBs and others in developing the local well-being plans.



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## Wales Environment Link evidence to the Environment and Sustainability Committee of the National Assembly for Wales

### Well-being of Future Generations Bill: Stage 1 consideration of general principles of the Bill

As the officially designated intermediary body between the Government and the environmental NGO sector in Wales, Wales Environment Link (WEL) values the opportunity to contribute to this potentially ground-breaking and world-leading Bill.

The cross-cutting nature of this Bill provides a real opportunity to truly mainstream environmental sustainability into all Government and public body decision-making. As such, we welcome the invitation to engage with this scrutiny process.

In the interest of aiding the Committee's scrutiny, we have addressed our concerns according to the Terms of Reference of the Committee's considerations.

#### 1. How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector;

1.1 The Government's intention to legislate for sustainable development is welcome. WEL believes there are a number of essential key elements required to make the legislation effective:

- A **strong duty**, so that public bodies "must exercise their functions in order to achieve sustainable development"
- A **definition that gives clarity on the meaning of sustainable development**, including the principles and objectives it seeks to achieve
- An **independent Commissioner** accountable to the Assembly who would promote and facilitate the achievement of sustainable development
- A **commitment to restoring the diversity and functioning of the natural environment** underpinning our society and economy

1.2 This last point was recognised by the Welsh Government, in commenting on Dubai's green economy strategy, when the then-Natural Resources Minister said, "*After all, our*

*natural resources are [our] most valuable asset and this is true of countries right across the globe.”<sup>1</sup>*

1.3 Without the sustainable use of natural resources, we undermine our ability to continue to provide the food and water we need to survive, or the raw materials we need to make the products that our economy relies on. Similarly, it is the overuse of resources which damages ecosystems and the biodiversity within them globally. A Welsh law for sustainable development must reverse this damage, halt biodiversity decline, then restore and enhance the habitats in Wales which provide us with the ecosystem services we need to survive. It must also account for Wales’ share of global consumption and resource use and all public bodies should take into account the international impacts of their decisions, including procurement, and not ‘export’ either environmental or social problems. We also believe that one of the requirements of a healthy natural environment is that our special landscapes and seascapes are cherished and protected from inappropriate development.

1.4 An excellent approach may be seen in Sweden, which has an over-arching goal in its Environmental Code, containing national environmental quality objectives to guide environmental action at every level.

“The purpose of this Code is to promote sustainable development which will assure a healthy and sound environment for present and future generations. Such development will be based on recognition of the fact that nature is worthy of protection and that our right to modify and exploit nature carries with it a responsibility for wise management of natural resources.”

1.5 **The goal is to pass on to the next generation a society in which the major environmental problems have been solved**, without increasing environmental and health problems beyond Sweden’s borders<sup>2</sup>. A Welsh law should set out to do the same, or better; for instance, whilst the Swedish system works through evaluations and agreeing strategies with targets, milestones and activities to support its national environmental quality objectives, it is not legally binding.

1.6 Furthermore, the UN is progressing work on its Sustainable Development Goals and the Bill should contain a commitment to review the goals in light of these to ensure they are complementary.

**2. The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the following areas [... sustainable development principle... public bodies specified... well-being goals... duties imposed on public bodies... measuring progress... Commissioner... Public Service Boards...]**

2.1 WEL reiterates some key points here but would also like to refer the Committee back to its position paper on the proposed FG Bill Goals (April 2014)<sup>3</sup>

2.2 We need a **strong definition**, as opposed to a ‘principle’, which provides clear and unambiguous direction to public bodies when considering how they should work towards achieving the national well-being goals. The sustainable development principle is the core of a definition, but it is weak, lacks ambition, and uses limiting language such as ‘*seeking to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.*’ [Emphasis added].

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<sup>1</sup> Alun Davies, <http://wales.gov.uk/newsroom/environmentandcountryside/2014/140228dubai/?lang=en>

<sup>2</sup> Sweden Environmental Code, Part 1, Chapter 1 provides s.1.

<sup>3</sup> [http://waleslink.org/sites/default/files/WEL\\_VIEWS\\_on\\_the\\_FG\\_Bill\\_Goals\\_Final.pdf](http://waleslink.org/sites/default/files/WEL_VIEWS_on_the_FG_Bill_Goals_Final.pdf)

- 2.3 WEL is concerned that the **scope of the duty** is unclear, for example, whether it applies to financial and procurement decisions, which we believe it should. We also reject the use of limiting words such as ‘*seek to*’ and recommend ‘*to achieve*’ instead.
- 2.4 The Minister in charge of this Bill, Jeff Cuthbert, told WEL in October 2013 that the Bill would ‘set over-arching obligations on public bodies, delivery boards, etc.’ to show how they’ve brought SD into their decision-making. We would therefore expect Government departments and public bodies to be more effectively required to consider whether their decisions can be made in a more environmentally friendly and more cost effective way whilst considering social impacts. Currently we have a piecemeal approach towards sustainable development, where we see environmental objectives being dropped in favour of social and economic ones. The current conflict over the Government’s intention for an M4 relief road, despite significant environmental damage, may be considered an example. Therefore, we need a **strong duty** which applies to **all** public bodies across **all** their functions. We consider this necessary to truly achieve sustainable development.
- 2.5 The lack of commitment to environmental objectives has led to the irrecoverable loss of some species and habitats and severe damage to others. This makes it all the more important to repair, restore and maintain what remains. Furthermore, it must be recognised that, in order to function properly, ecosystems must continue to sit within coherent and well-protected landscapes and seascapes. Lessons can be learned from biodiversity legislation in other countries such as in Minnesota, USA, which emphasises the enhancement of natural resources:<sup>4</sup>
- “The legislature finds and declares that each person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state and that each person has the responsibility to contribute to the protection, preservation, and enhancement thereof. The legislature further declares its policy to create and maintain within the state conditions under which human beings and nature can exist in productive harmony in order that present and future generations may enjoy clean air and water, productive land, and other natural resources with which this state has been endowed.”
- 2.6 In this light, WEL believes that the **national goals** do not adequately reflect the need to **restore Wales’ damaged biodiversity**, the extent of which was highlighted in the *State of Nature* report and acknowledged in the Explanatory Memorandum to this Bill. In this vein, WEL believes the Resilience descriptor should be improved to make this clear, reading: “A biodiverse natural environment is *restored and enhanced*, with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change.”
- 2.7 Other goals are more weak and less ambitious than those in *One Wales One Planet* in terms of reducing the economy’s use of natural resources, our contribution to climate change and to use a ‘fair share of the earth’s resources’; compared to ‘proportionate use’ as stated in the Bill (more below).
- 2.8 WEL remains concerned about the powers and duties of the **Commissioner**, which are inadequate. The role is not independent enough, which is made clear in the appointment process, term of office and the advisory board appointments. The role should have a much stronger purpose so as to hold Government and public bodies to account, not to simply advise them. This presents the risk of advice being ignored. To

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<sup>4</sup> Minnesota Environmental Rights Act Statute 116B.01 (2006)

properly scrutinise the Government, we believe the Commissioner should be independent and appointed by the Assembly, not by the Government.

- 2.9 WEL is also concerned about the composition of the **Public Service Boards**. We believe that having NRW as the sole environmental representative is insufficient. Furthermore we question whether NRW currently has the capacity to fully address environmental issues across all of the local level Boards which will require significant resource requirement in terms of staff time. This includes providing evidence on the international aspects of global systems and environmental limits. How this will be addressed in practice needs further consideration.
- 2.10 The Bill does not seem to be specific about the Auditor General for Wales' role in auditing the progress of public bodies in achieving their well-being objectives, other than receiving their annual reports or, in the case of the Public Service Boards, their local well-being plans and reports on progress with those.

### 3. How effectively the Bill addresses Welsh international obligations in relation to sustainable development;

- 3.1 The Bill's **national goals** do not address international obligations. The 'principle' in the Bill makes no mention of considering impacts outside of Wales or of the important concept in Brundtland of 'living within **environmental limits**'. This is a significant omission which threatens and undermines the credibility of the legislation. Our global impact needs to be included effectively – either in the goals or elsewhere. Wales cannot be a sustainable nation without recognising and reducing its impact beyond its borders. Therefore the Bill needs to enshrine living within environmental limits and using a fair share of the Earth's resources, as in *One Wales One Planet*. Not doing so to date has led to Wales failing to meet its international obligations to halt the decline of biodiversity by 2010 and must now ensure it has systems in place to meet the new 2020 deadline<sup>5</sup> for "halting the loss of biodiversity and the degradation of ecosystems in the EU".
- 3.2 Another glaring omission is the failure to mention or act on **climate change**. This is despite it being one of the biggest priority issues for the world, a symptom of living beyond environmental limits, highlighted as a priority issue in 'The 'Wales We Want' National conversation and one that is consistently raised by Welsh Government.

*"It is quite clear to me that climate change is happening and that it is influenced by the way in which we live our lives. It strikes me that the overwhelming scientific evidence supports that conclusion."* Carwyn Jones, 11 February 2014, the Record

*"Tackling climate change also presents us with the opportunity to create jobs, stimulate green growth and tackle poverty, but to do this we need to adapt and do things differently to ensure the best possible future for Wales."* Ex-Minister, Alun Davies<sup>6</sup>

- 3.3 Climate change is an example of a global system impacted by all peoples and nations which is reaching its environmental limit. Increasingly in the future climate change will have a significant impact on public bodies' ability to deliver on their well-being objectives, therefore WEL believes the Bill must recognise this and provide for public bodies to address both **climate change mitigation and adaptation** as part of the national goals. We recommend a requirement or specification for emission reduction targets, either in this Bill or the Environment Bill. It is worth noting that Welsh local

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<sup>5</sup> <http://ec.europa.eu/environment/nature/biodiversity/comm2006/2020.htm>

<sup>6</sup> <http://wales.gov.uk/newsroom/environmentandcountryside/2014/141303climate/?lang=en>

authorities *would already be* considering climate change measures had the Welsh Government activated its duties under the Climate Act (2008).<sup>7</sup>

- 3.4 Furthermore, a strong duty would provide the drive and guidance necessary for public bodies to scrutinise their supply chains and limit or stop the use of products adversely connected to threatened species and habitats such as rainforests.

**4. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;**

- 4.1 A key barrier to the implementation of these provisions is a lack of targets. We are concerned that the goals are very general and fail to convey a sense of scale or urgency to meet them, such as how much healthier does Wales need to be and how soon? We believe the Bill should require Government to set targets in relation to the national goals and not limit it to 'indicators of progress'. These targets can enable public bodies to set SMART objectives for themselves, provide the Commissioner with evidence of compliance and provide incentives for business innovation.
- 4.2 Another often raised concern is around a lack of data and evidence at the appropriate scale in Wales. This applies from local data all the way to providing updates on emerging scientific knowledge and its significance for any particular public body in Wales. The Bill should provide clarity on whose responsibility it is to provide this advice.

**5. Whether there are any unintended consequences arising from the Bill;**

- 5.1 The architecture of the Bill is very complex. The duty sitting on public bodies is mainly to develop objectives which will contribute to meeting the goals in the Bill. There is a danger that the public bodies will focus their efforts on goals singly and therefore not challenge current practice and try to integrate deliver across all the goals (as Clause 8 asks). 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.
- 5.2 Additionally, a clear definition of what is meant by sustainable development is necessary to help in the interpretation of any apparent conflicts and to clarify the context for the decision making requirement in clause 8. So a weak duty and an unclear (or insufficient) definition will not drive any change from business as usual.

**7. the appropriateness of the powers in the Bill for 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 Welsh Ministers to make subordinate legislation).**

- 7.1 There is some concern with regard to how long-lasting the goals will be, if Ministers are able to change them via subordinate legislation. For something so fundamental we consider that any changes should be made via a process which requires detailed consideration by the Assembly akin to that of primary legislation.

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<sup>7</sup> Part 5, Section 81 of the Climate Change Act (2008) states that "Welsh Ministers must from time to time publish a **climate change measures report**". In turn, a local authority in Wales must, in exercising its functions, have regard to any current climate change measures report.



**Wales Environment Link** is a network of environmental, heritage and countryside Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the Government and the environmental NGO sector in Wales. Its vision is to increase the effectiveness of the sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

The following WEL members support this document:

**Afonydd Cymru**

**Amphibian and Reptile Conservation Trust**

**Bat Conversation Trust**

**Butterfly Conservation Wales**

**Campaign for National Parks**

**Coed Cadw – Woodland Trust**

**Keep Wales Tidy**

**Llais y Goedwig**

**National Trust**

**Open Spaces Society**

**Oxfam Cymru**

**RSPB Cymru**

**WTW Wales**

**WWF Cymru**

## Well-being of Future Generations (Wales) Bill Response from Office for National Statistics (ONS)

### Written evidence from the Office of National Statistics on the Well-being of Future Generations Bill

#### Introduction

Thank you for the opportunity to comment on the draft Bill.

The Office for National Statistics (ONS) launched the Measuring National Well-being Programme in November 2010 with the aim to develop an accepted and trusted set of National Statistics to help people understand and monitor national well-being. Measuring national well-being is a long term development programme and the ONS is recognised internationally as playing a lead role in its development. One of the objectives is to see the transition of this work into the main-streamed business environment to ensure ongoing delivery of benefits; therefore ONS welcomes the Bill as an important innovation in meeting this goal.

ONS in developing measures of national well-being aims to ensure that information is reported in a consistent framework that recognises the three main pillars of the economy, environment and social (the draft Bill's three aspects of its aim to improve well-being); the four capitals (Physical, Natural, Human and Social); and the various domains (e.g. Health, Education, Where we live, Personal finance, etc), as well as the dimensions of Sustainability and Equity (see further comments below under Section 2).

The ONS, acting on behalf of the Government Statistical Service, is also supporting the development of the Post 2015 Sustainable Development Goals by providing statistical advice and comments and will assess the robustness, timeliness and relevance of the measures proposed. In addition, the ONS is now responsible for publishing the Sustainable Development Indicators.

The following comments concentrate on the definition of well-being and the related goals, targets and measures to reflect ONS's main interests.

#### **Part 1, Section 2 - Aim of public bodies to improve well-being**

The aim '*of public bodies is to improve the economic, social and environmental wellbeing of Wales in accordance with the sustainable development principle*' highlights the 3 pillars that are used to gain a better understanding of overall well-being. However, care needs to be taken regarding the use and understanding of what 'well-being' refers to. It is 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.

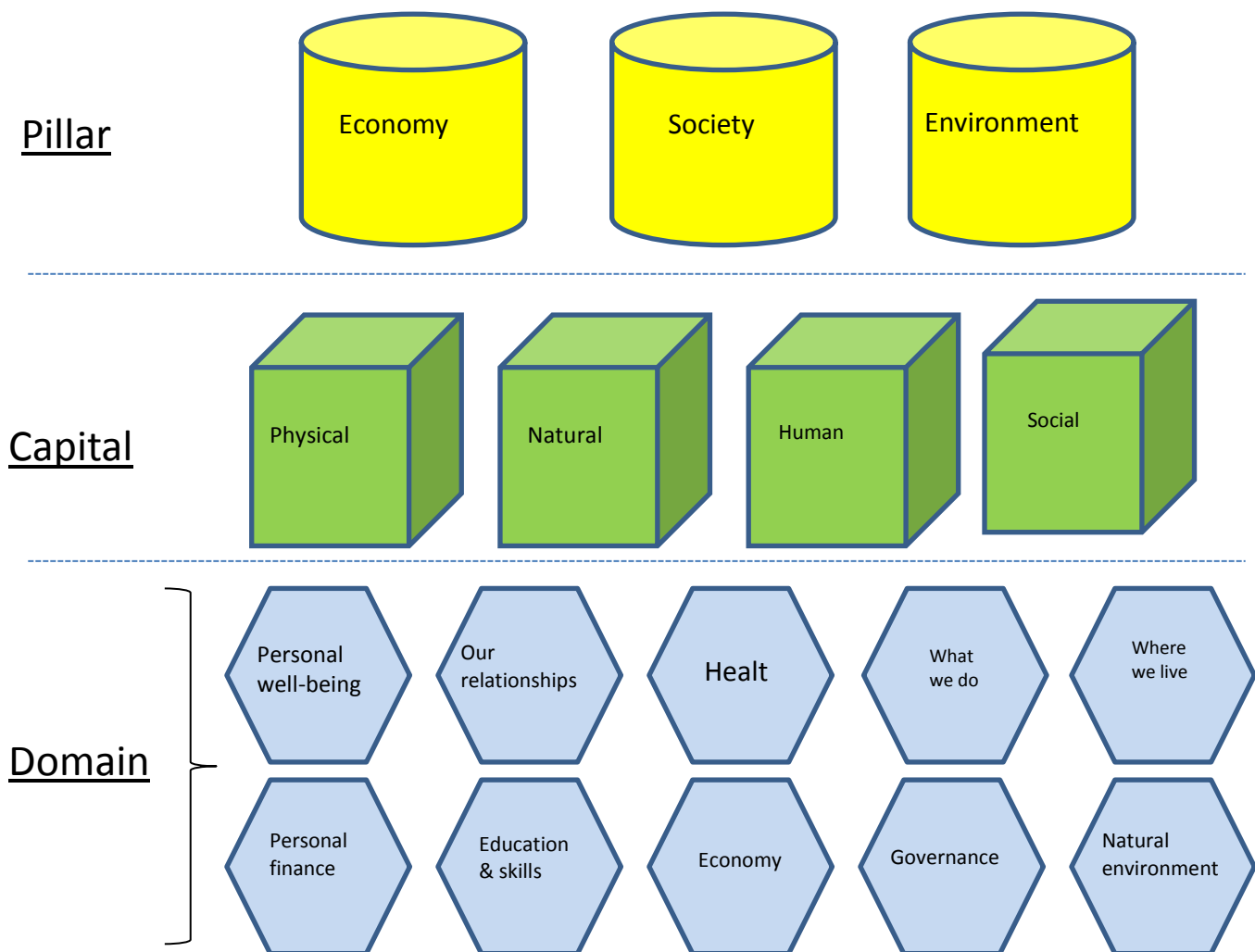
The Commission on the Measurement of Economic Performance and Social Progress Report (Stiglitz et al. 2009), known as the Stiglitz Report, has had a significant influence on international developments of well-being measures. The report identified the key dimensions of well-being to include health, education, social connection, political voice, unpaid household work, and the present and future condition of the environment. The Commission

noted that “all these dimensions shape people’s well-being and yet many of them are missed by conventional income measures.”

Traditional measures of progress such as GDP are increasingly considered an incomplete picture of the state of the nation. The Commission argued that no single measure can summarise something as complex as the well-being of the nation and any system of measurement must encompass a range of different measures. GDP only measures activity within ‘the market’ producing estimates of physical capital; however, much of what maintains and enhances well-being occurs outside of the market. The Commission further argued that applying a broader definition of wealth, to include natural capital, social capital and human capital, could provide a better understanding of national well-being.

Figure 1 presents a simple comprehensive framework for understanding and monitoring national well-being. It highlights the three main pillars of the economy, social and the environment (the draft Bill’s three aspects); illustrates the four capital stocks (ie Physical (produced), Human, Social and Natural); and the 10 domains currently used to monitor national well-being. The dimensions of sustainability and equity need to be further developed and considered as fitting this framework.

Figure 1. Three presentations of national



## **Section 6: Well-being goals**

The draft Bill proposes 6 high level well-being goals. An important element will be how these goals can be translated to targets and these targets monitored and measured (see also comments below related to National indicators). Should the Bill be more specific regarding how the goals relate to specific outcomes with clear time-bound targets (eg by 2025..)?

The draft Bill has an obvious relationship with the international development of the Post 2015 Sustainable Development Goals (SDGs) (see link here for more detail> <http://sustainabledevelopment.un.org/index.php?menu=1300>). Although the SDGs are not expected to be finalised until September 2015, should the Bill consider aligning the Welsh goals with those agreed at an international level?

## **Section 11: National indicators and annual well-being report**

The choice and use of a set of National indicators to monitor, measure and report on progress will be a critical part of the successful implementation of the Bill. Considerations about measurement must not be an afterthought for the Bill. It is important for policy makers to work closely with statisticians in developing a set of targets and indicators that are statistically robust and measurable.

It is also important that the indicators consider what is important, not just readily or currently available. It may be that new measures are required to monitor what is important and relevant for this work and relevant steps taken to develop these. Of course there may be cost implications.

The disaggregation of the National indicators will also be an important element. The Bill notes in Section 35(4) that an analysis must refer to any national indicators. It will be desirable that the National indicators selected are also consistently available at a local level.

It may be considered that to gain maximum acceptance and trust in the National indicators that they should be assessed by the UK Statistics Authority to obtain National Statistics status, if not already.

The ONS's well-being programme aims to provide an overview of wealth accounting, including the four capitals, as well as producing headline measures of national well-being and sustainability. The concept of comprehensive wealth is important as having a present day estimate of this wealth signals our future prospects for well-being and prosperity. In turn, the way in which this wealth is changing over time indicates how these future prospects are altering.

ONS already publishes Produced or Physical capital as part of the National Accounts and is continuing to develop and publish regular Human capital estimates as part of the measuring national well-being programme. Initial estimates of Natural capital were published in May 2014 and could be combined with these two capitals to further develop the first comprehensive wealth account for the UK. The ONS has also published a discussion paper on Social Capital on 18th July, thereby recognising the need to consider the economy, environment and social pillars to gain a fuller understand of overall well-being.

However, measurement of the capital stocks is at different stages, but as they mature it might be possible for them to eventually come together in the first comprehensive national wealth account. Growth or depletion of national wealth might in future provide an important headline national well-being metric.

The balance of depletion and investment determines the extent to which the stocks of produced, human, social and natural capital are maintained and highlights our ability to sustain the existing pattern of social and economic activity. GDP and our traditional measures of economic progress provide little indication of the sustainability of underlying activity and whether the well-being of current generations is being enhanced at the expense of future generations. ONS's well-being programme is helping to address this by progressing measurement of all four capital stocks.

## **Section 12: Future Trends Report**

The draft Bill notes that Ministers must publish a '*future trends report*'. Predictions of likely future trends in the economic, social and environmental well-being could vary considerably. There are differences between forecasts and projections and their related assumptions. It will be important in any report that these assumptions are clearly identified so that users of the report can interpret the results appropriately.

A definition of forecasting is the process of making statements about events whose actual outcomes have not yet been observed. Prediction is a similar, but more general term. Both might refer to formal statistical methods employing various amounts of time series, cross-sectional or longitudinal data.

Both qualitative and quantitative forecasting techniques can be used when analysing future trends. Qualitative forecasting techniques are subjective based, often based on the opinion and/or judgment of experts or survey respondents, and are usually used when past data are not available. Quantitative forecasting models are used to forecast future data as a function of past data.

As noted earlier, assumptions, particularly related to risk and uncertainty, are central to forecasting and prediction. It is generally considered good practice to indicate the degree of uncertainty attaching to forecasts.

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