

Submitted to Wellbeing and Sustainable Development (Scotland) Bill  
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## Defining wellbeing

1 Is a statutory definition of 'wellbeing' required?

Yes

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

Please use this space to provide your views.:

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

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

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

## Defining sustainable development

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

Yes

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

No

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

Please use this space to provide your views.:

A clear and rigorous definition of sustainable development should be set out. Any definition should acknowledge the impact of our decisions beyond Scotland's borders and the need for any development to be equitable.

Sustainable development does not just concern future generations, but also wellbeing and equity now, in Scotland and globally. Any definition of sustainable development adopted in the Bill should explicitly link present and future generations.

A definition of sustainable development should be accompanied by a defining 'policy coherence for sustainable development' to ensure that sustainable development is pursued in a joined-up way.

Proposed definition:

"Sustainable Development can be defined as the development of human societies in a way that enhances collective wellbeing based on fair shares of planetary boundaries, and which equitably support the capability of present and future generations across the world to meet their needs."

The inclusion of principles in addition to the definition might help to clarify further how sustainable development should be implemented. Potential principles to consider would be:

☐ The principle of (human or social-ecological) wellbeing instead of economic growth as the core societal objective.

☐ The principle of enhancing ecological and planetary systems through regenerative approaches.

The principle of prevention - focusing on early action rather than just reacting to problems

☐ The principle of intra- and inter-generational equality and equity – to meet the needs of present generations without compromising the ability of future generations to meet their needs.

☐ The principle of interdependence and indivisibility across public policy, meaning that policies are inextricably linked and require policy coherence for sustainable development in response.

- The principle of doing no harm internationally and good global citizenship.
- The principle of evidence-based policymaking.
- The principle of openness and transparency – the availability of information on efforts to achieve sustainable development is vital to engagement and accountability.
- The principle of participation – to recognise that everyone in society has a role to play in working together to achieve sustainable development.

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

Please use this space to provide your views.:

This legislation provides an opportunity to put primary prevention (stopping problems from happening in the first place) at the forefront of decision making, protecting the health, economic and social wellbeing of future generations, and the sustainability of our environment and public services for all. This ensures decision-making has a stronger foundation when responding to emerging issues or challenges.

The legislation will hopefully enable the public to better hold Scottish Government and public bodies to account for wellbeing and sustainable development, irrespective of the issues and challenges they might or might not face.

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

Please use this space to provide your views.:

Having a clear definition of ‘Sustainable development’ does not necessarily mean introducing a new duty or concept, but rather properly defining what is already in place across other legislation, in order to improve delivery. In particular, the WSD Bill could strengthen the existing duty in the Climate Change (Scotland) Act 2009 which requires all Scottish public bodies to, in exercising their functions, act in the way they consider ‘most sustainable’. This existing duty has been shown to be not well-implemented, possibly due to the wording of the Act and a lack of parallel capacity building, support and accountability requirements.

## Strengthening duties for the National Outcomes and sustainable development

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

Please use this space to provide your views.:

The duty should be amended to use more tangible, directional and affirmative language relating to the delivery of the National Outcomes, wellbeing and sustainable development. This would help ensure that public authorities take account of, and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes.

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

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

Areas of decision making to include::

Areas of decision making to exclude::

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

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

Please use this space to provide your views.:

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

One of the potential challenges of making the Bill effective is the additional strain it might put on the stretched capacity of the public bodies subject to the strengthened duties proposed in the Bill. However, it is important that the Bill does bring about changes to how public bodies see the National Outcomes, sustainable development and wellbeing. In this sense, the Bill should seek to embed new ways of working, thinking and reporting by public bodies in Scotland that encourages more joined-up processes and coherence towards the goals of wellbeing and sustainable development. While these changes are crucial, they will not be achieved if duties are not accompanied with the relevant support, training and guidance for public bodies.

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

This includes:

Defining wellbeing and sustainable development to clearly set out the ultimate outcomes and priorities that are being sought.

Provide guidance on how to resolve trade-offs with existing duties or between different National Outcomes by establishing a clear definition of policy coherence for sustainable development.

Defining ways of working to establish a coherent approach to pursuing the duties and outcomes set in the Bill, supported by detailed guidance on how to implement those ways of working in different contexts.

Creating an independent 'Future Generations Commissioner' with the capacity to offer support to public bodies, to build capacity, to provide scrutiny and to provide a forum for sharing learning across the public sector.

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

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

## Clarifying to whom the duties apply

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

Please use this space to provide your views.:

Yes

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

Please use this space to provide your views.:

It is important that duties apply to the Scottish Government as well as public bodies. The duties should also be applied to non-SME businesses as a minimum. The Bill should build on, and strengthen, current duties on Scottish Ministers to take account of, and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes.

These duties should include requirements for the Scottish Government to report more regularly, at least biennially, and to publish delivery plans for how they will work towards the National Outcomes.

Duties on the Scottish Government should help ensure that the National Outcomes, and broader 'National Wellbeing Framework' in which they sit, becomes a roadmap, rather than a vision, for the Scotland we want to see.

To strengthen the duties on the Scottish Government, we propose this Bill should amend duties in relation to the National Outcomes that the existing Community Empowerment (Scotland) Act 2015 has conferred on Scottish Ministers, so that:

- Scottish Ministers will be required to produce a framework for the delivery/implementation of National Outcomes
- Scottish Ministers will be required to report on the delivery of National Outcomes annually.

When Scottish Ministers are setting new National Outcomes, or revising existing ones, they will have to support meaningful public participation. Specifically, clauses around engagement should require 'participation' rather than 'consultation'.

Businesses play a significant role in supporting, enabling and delivering on the ambitions of the National Performance Framework, particularly regarding fair work and environmental sustainability. Similarly, as suppliers of products and services to public bodies including Scotland's colleges and universities, businesses can be supporters and enablers of helping Scotland's public bodies meeting their wellbeing and sustainable development objectives. Without hard and soft powers to pivot businesses towards fulfilling their potential as actors of the National Performance Framework and supporting public bodies with their objectives, the realisation of Scotland's ambitions will be slower and more fragmented.

## Defining ways of working

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

Please use this space to provide your views.:

To enable stronger accountability Ministers should be required to report more regularly on progress towards the National Outcomes to parliament, and parliament should be giving ample time to scrutinise these reports.

In addition, government reporting should be complemented by an institution capable of providing independent assessments of Scotland's progress towards wellbeing and sustainable development. Our preferred option for this would be a Future Generations Commissioner.

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

Please use this space to provide your views.:

We recommend considering the work done in many third sector organisations setting up awards and celebrating wins – how can this be given more of a platform to inspire and highlight good practice and encourage “through the carrot”. If more attention and gravitas is given to good work in the wellbeing and sustainable development space that is already happening, this might motivate, or even positively pressurise, others to follow suit and/or collaborate.

Defining ‘policy coherence for sustainable development’ is key for ensuring a coherent approach to policy making in Scotland.

Our proposed ‘ways of working’:

participation: recognising that everyone in society has a role to play and actively engaging quiet voices that often go unheard

integration: achieving policy coherence for sustainable development by aligning public bodies’ efforts, collaborating and committing to shared learning

long-term: balancing the needs of today with those of future generations

global citizenship: considering the impact of our decisions and doing no harm internationally

prevention: focusing on early action rather than just reacting to problems

openness: enabling engagement and accountability through openness and transparency

evidence-based: making decisions based on the best evidence available

Defining policy coherence for sustainable development

We propose to define policy coherence as the consistency of public policy, whereby no policy undermines any other policy; where policy conflicts occur, the root cause of the conflict should be identified and efforts made to resolve it in a manner which minimises trade-offs and maximises synergies.

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

Please use this space to provide your views.:

No known conflicts within EAUC Scotland.

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

Please use this space to provide your views.:

EAUC already maps its SFC-funded programme against the National Performance Framework to evidence alignment. We do not envision additional resource implications as a consequence of the Wellbeing and Sustainable Development Bill at this stage.

#### Determining an approach to future generations

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

Yes

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

Please use this space to provide your views.:

There are a number of important ways in which an independent Commissioner for Future Generations could increase accountability, scrutiny and support for decision making. These roles can be written into the text of the Bill, together defining the powers and responsibilities of the Commissioner role:

Effective accountability is guaranteed by specifying who is accountable, to whom, in respect of what responsibilities, and with what potential sanction.

The WSD Bill must consider all these elements, making clear who (potentially all Scottish public bodies) have what responsibilities (e.g. to act or report in ways consonant with wellbeing and sustainable development objectives) to be assessed by the commissioner through what mechanisms – (e.g. key reports sent to commissioner for approval; commissioner empowered to demand responses; commissioner’s assessment to be tabled in parliament).

To ensure support for decision-making, the Bill could make it mandatory for key decisions (e.g. laws, budgets) to be presented for consideration by the Commissioner and the assessment and recommendations made public.

One key question is whether the commissioner should be given more 'active', investigate powers (and matching capacity) or whether the accountability role should be more 'passive' – scrutiny activated by a report or decision placed before the commissioner, say. The strongest commissioner has the mandate and capacity to investigate, but evidence from other countries suggests the commissioner must be widely perceived as legitimate for this role to be sustained.

The commissioner has a role in wider thought leadership, developing the understanding of wellbeing and sustainable development in Scotland, advising informally and creating resources that support public bodies in carrying out their duties, and in developing governance infrastructure and multi-stakeholder partnerships around wellbeing and sustainable development over time.

In addition to scrutinising policy tensions and divergence, the role should also help to streamline and align related policies. Within the Scottish tertiary education context for example, from a learning and teaching perspective, green skills, meta skills, and Learning for Sustainability are all pushing and asking for similar changes and developments, but are siloed and therefore reporting on these aspects or making changes to existing practices can feel tedious for practitioners 'on the ground'. A Future Generations Commissioner could highlight connections between related existing and emerging policies which could make the policy landscape more coherent and easier to navigate, as well as help to streamline and simplify practice.

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

Please use this space to provide your views.:

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

It is important to note that all of these approaches themselves involve resourcing demands. The capacity to undertake scrutiny; support and learning resource development; promotion or voice for this agenda, all come with resource implications regardless of the institutional form they take. Likewise, accountability and system change must involve the creation or transfer of authority, agency, and capacity within the Scottish political system. How far resource and power are to be put behind the wellbeing and sustainable development agenda, in whatever form, should be a key metric for judging the success of the Bill.

Further considerations:

Many countries with commissioners do not rely on commissioners alone to achieve these functions. Advisory councils and commissions, and parliamentary groups and committees are widely employed alongside commissioners or ombudsmen as part of (present or envisioned) WSD governance ecosystems.

A national advisory council or commission, representing a wide spectrum of civil society actors, is tasked in some countries with 'thought leadership' and supporting policymakers. Linking this body formally to the prime/first minister is a way to guarantee a role in promoting, establishing and safeguarding wellbeing and sustainable development concerns. With a specific intergenerational lens, giving meaningful authority to a council of younger and older generations could serve a similar purpose of promotion and voice.

About you

20 What is your name?

Name:  
Matt Woodthorpe

21 Are you responding as an individual or an organisation?

Organisation

22 What is your organisation?

Organisation:  
EAUC

23 The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

24 Do you consent to Scottish Government contacting you again in relation to this consultation exercise?

Yes

25 What is your email address?

Email:  
scotland@eauc.org.uk

26 I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

## Evaluation

27 Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Very satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Very satisfied

Please enter comments here.: