

Proposed Wellbeing and Sustainable Development (Scotland) Bill

Introduction

A proposal for a Member's Bill to ensure policy development and implementation by public bodies is in line with principles of sustainable development and wellbeing by introducing a duty for public bodies to promote these principles and establishing a Commissioner for sustainable development and wellbeing.

The consultation runs from 14 December 2022 to 24 March 2023

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Only give the name of your organisation if you are submitting a response on its behalf).
(Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

National Trust for Scotland

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

[REDACTED]

Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Bill? (Please note, that this question is compulsory.)

Fully supportive

Please explain the reasons for your response.

The National Trust for Scotland (The Trust) supports the proposed Wellbeing and Sustainable Development (Scotland) Bill. The proposed bill has the potential to strengthen legislation and policy

Q1. Which of the following best expresses your view of the proposed Bill? (Please note, that this question is compulsory.)

making and ensure sustainable development and wellbeing become the foundations of public thinking and policy making in Scotland, in line with the National Outcomes outlined in the National Performance Framework.

The National Performance Framework is currently under review by the Scottish Government. The proposed bill could be used to enhance and strengthen the National Outcomes and The Trust will be advising the Scottish Government as such.

The proposed bill provides an opportunity for Scotland to become a world leader in sustainable development and in ensuring wellbeing underpins future policy making in Scotland. The Covid-19 pandemic highlighted the impacts poor physical, mental, economic and social wellbeing can have on public health. It is crucial our recovery from the pandemic is just and sustainable in order to be viable and successful.

The sustainability of our planet (minimising climate change and increasing biodiversity) and the wellbeing of humanity are intrinsically linked. Wellbeing depends on whether societies can adopt more sustainable methods of development. Sustainable development requires joined up policy making that works. It is hoped that the proposed bill may be able to realise this vision where policy, people and planet can work together to create sustainable futures that protect and enhance wellbeing through policy making.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

The Trust believes legislation is the most effective way that the proposed bill's aims can be achieved. The proposed bill aims to establish a statutory definition for both 'Wellbeing' and 'Sustainable Development'. A statutory definition can only be provided by legislation. Additionally, statutory public duties can only be amended/created by legislation. Other measures would have no legal effect.

Legislation is also a key tool in shaping societal change. Whilst initially useful to ensure or encourage compliance, it can also help to shift societal norms and ways of thinking. During the Covid-19 pandemic the world witnessed huge societal shifts from how we worked and socialised, to social distancing and mask wearing, thanks to legislation and compliance, which – certainly in most developed nations – was relatively high (e.g. How laws affect the perception of norms: empirical evidence from the lockdown, Galbiati, Roberto (2021)). But what we also learned was, people wish to see what difference their actions are making, or their compliance and enthusiasm falls. One way to increase the chances of success is to join up the proposed bill with existing commitments such as the National Outcomes, the UN Sustainable Development Goals and targets, and the national Land Use Strategy. We should also draw on the European Union environmental principles (precaution, prevention, rectifying pollution at source, and polluter pays, along with the integration principle).

Another important step in developing effective legislation is the inclusion of 'Policy Coherence for Sustainable Development' (PCSD). Wellbeing and sustainable development are certainly not new terms, but PCSD has only recently been discussed in policy circles. Currently 'coherence' – mutual support and consistency – is not a requirement of public policy in Scotland and consideration of how a policy may affect other policies or indeed people outside Scotland is not the cultural norm. To shift towards a more sustainable development pathway policy coherence is needed. The current National Performance Framework, which is intended to balance environmental, social and economic development, could be applied more effectively to support PCSD.

Q3. Which of the following best expresses your view on whether 'sustainable development' should be defined in legislation?

Fully supportive

Please explain the reasons for your response, including any views on what the definition should include.

The Trust believes that a clear definition of 'sustainable development' should be defined in the legislation. The term 'sustainable development' is widely used in current policy discussions, current legislation and more. Whilst The Trust is fully supportive of its inclusion in legislation and discussion until now, we are also of the view that its definition and subsequent interpretation and application can be inconsistent.

The Trust is of the view that a clear, rigorous definition of sustainable development, and policy coherence

Q3. Which of the following best expresses your view on whether 'sustainable development' should be defined in legislation?

for sustainable development and wellbeing, should be set out in this bill.
The definition suggested by Scotland's International Development Alliance, that "Sustainable Development can be defined as the development of human societies in ways which do not threaten planetary boundaries, and which equitably support the capability of present and future generations across the world to meet their needs" is helpful and could be a basis for an initial framework and discussion.
Central to any useful definition would be the recognition of environmental sustainability, of living within planetary boundaries, including in relation to the mitigation of climate change and ensuring the protection and recovery of nature. As such, it is important that any definition is clearly linked to achieving the UN's Sustainable Development goals.
A further consideration when considering definitions is the concept of change. Once again the Covid-19 pandemic showed us that ways of living, ways of thinking, legislation and indeed definitions can take on new inflections. As society moves forwards, flexes, adapts and changes in line with our fast moving world – it would be useful to outline how easily an addition might be made to an agreed definition.

Q4. Which of the following best expresses your view on whether 'wellbeing' should be defined in legislation?

Fully supportive

Please explain the reasons for your response, including any views on what the definition should include.

Like sustainable development, The Trust believes that a clear definition of 'wellbeing' should be defined in the legislation – as it pertains to that legislation. Whilst wellbeing is not often mentioned in current legislation it is widely used in policy.

Whilst it may therefore not be as pressing to create a definition of 'wellbeing', when creating policy coherent legislation - the development of a clear definition is of benefit in order to attain consistent application across policy and practice.

We would propose that any definition of wellbeing would incorporate elements of being comfortable, healthy, and happy, and recognise the components that help to realise this – including the built environment, access to nature, culture, recreation and social activities.

Scotland's International Development Alliance also suggests that a definition of 'wellbeing' should include the principles of equity and 'long-termism' and should not stop simply at a definition. Rather, the public would be regularly engaged in conversations about what matters to them and this information is then used for wellbeing goals. This has already been done for Scotland's National Outcomes and could be carried out in a similar way for the proposed Wellbeing and Sustainable Development Bill.

Q5. Which of the following best expresses your view on whether there should be a Commissioner for sustainable development and wellbeing?

Partially supportive

Please explain the reasons for your response, including any views on what the key functions of the proposed Commissioner should be (see pages 19 to 20 of the consultation document), what model of governance could be adopted (see page 22 to 23), and whether the Commissioner could play a role in strengthening existing duties or legislation.

The Trust supports the proposal for sustainable development in principle, and for this to be better integrated into all of the work of the public sector.

Considering implementation, we would need to start from where we are and think about the existing institutional landscape, including the three environmental regulators (Scottish Environment Protection Agency, NatureScot, and Historic Environment Scotland), along with the new Environmental Standards Scotland organisation, and bodies such as the Climate Change Commission, and the Scottish Human Rights Commission.

Resources also need to be considered. The Welsh Future Generations Commissioner is better understood as an organisation, rather than an individual, with some 30 staff currently employed.

Q5. Which of the following best expresses your view on whether there should be a Commissioner for sustainable development and wellbeing?

Any Commissioner role should be independent of government, have the powers needed to create tangible change and be sufficiently resourced to advise public bodies in delivering the duties imposed on them by the bill. They should also have the power and resources to hold the Government and public bodies to account and be able to carry out evidence-based research with which to advise public authorities. This role could be considered, and the powers/functions determined in parallel with the review of environmental governance under s.41 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, and in particular take account of the role of ESS and proposals for an Environmental Court or Tribunal.

Q6. What, in your view, should the title of the proposed Commissioner be?

Please explain the reasons for your response.

Whilst The Trust has no strong view on what any proposed Commissioner's title should be, it is important that the title is clear, reflects the functions of the role, resonates with the public and works to create visibility.

In Wales, the title of 'Future Generations Commissioner' has relevance and possibly greater appeal than other traditional titles in public policy. However, this title does not necessarily capture the proposed scope for sustainable development and wellbeing which covers both future and current generations and people in Scotland and living elsewhere.

Once definitions are agreed upon for 'sustainable development' and 'wellbeing' a suitable title may emerge.

Q7. Which of the following best expresses your view on whether there is a need for duties for public bodies to promote sustainable development and wellbeing in policy development and implementation?

Fully supportive

Please explain the reasons for your response including views on any barriers to implementation of these duties and on how the effectiveness of implementation could be measured.

The Trust is supportive of public bodies promoting sustainable development and wellbeing in public policy and would support any bill that strengthens the duties on public bodies to do this. There is great ambition within the Scottish Government to tackle climate change and uphold environmental standards following Brexit, however it is clear that current duties are not going far enough to enable effective action.

However, there is a need for greater clarity regarding (a) the power and enforceability of the duty and (b) its interaction with other duties (in particular those related to climate change, biodiversity and good food). The proposed bill could strengthen the existing duty in the Climate Change (Scotland) Act by mainstreaming sustainable development.

There may be contradictions – for example the economic growth imperative for Scottish Enterprise in the Enterprise and New Towns (Scotland) Act 1990. In cases like this Scotland's International Development Alliance suggests the proposed Bill could also amend the Climate Change (Scotland) Act 2019 so that, once conflicting duties have been identified, the Act outlines a requirement for a transparent process that seeks to resolve this conflict as far as possible, reflecting 'policy coherence for sustainable development'. Certain 'exemptions' may be necessary for extreme cases, however, in theory, this amendment could apply in all cases.

The new duty should build on and clarify existing duties around sustainable development, wellbeing and the National Outcomes rather than add extra duties onto existing public bodies. Scotland can learn from the examples of the Future Generations Commissioner in Wales and from similar roles in New Zealand, Israel, Hungary, Norway, Finland and Canada. All of these have formed the 'Network of Institutions for Future Generations' (NIFG) and showcase the work of each member nation.

The consultation document discusses the relationship with Audit Scotland, and how any proposed Commissioner and their office could work with the audit process. The Trust is of the view that the audit role is to assess whether "public money is spent properly, efficiently and effectively", not whether the 'right things' are being done, or whether public functions could operate in a different, and better way. The

Q7. Which of the following best expresses your view on whether there is a need for duties for public bodies to promote sustainable development and wellbeing in policy development and implementation?

Commissioner role could therefore have more of an evaluation approach, starting from first principles, and drawing on evidence of good practice from elsewhere in the UK, Europe, and globally.

Financial Implications

Q8. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

Don't know

Please explain the reasons for your response, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

The Trust would expect that, better linkage and joined up working and delivery between different functions (e.g. housing, transport, land use) and creating complementarities rather than conflicts, should result in lower public and private costs over time.

While there might be some (administrative) cost on public bodies, these could potentially be offset by the bill improving and adding coherence to the existing duties.

By placing duties on public bodies to promote wellbeing and sustainable development, and by creating a Commissioner role that supports and scrutinises any implementation, this proposed bill should focus spending on policies that create better outcomes for people and the environment in the first place, and reduce the need for corrective public and private spending on remediation, mitigation and recovery.

Equalities

Q9. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your response and if there are any ways you think the proposal could avoid negative impacts on particular people.

This proposal, if taken forward, should have a positive impact on equalities issues which should be considered in all wellbeing legislation.

Sustainability

Q10. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas? (If you do not have a view then skip to next question)

Please explain the reasons for your response, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

No Response

General

Q11. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

The Trust looks forward to further development of the proposed bill and would be pleased to discuss these issues in more detail and/or comment on more detailed proposals, as well as work with those seeking to develop definitions and ideas.