

Consultation on Proposals for a Sustainable Development Bill

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<b>Name/Organisation</b>
Bron Afon Community Housing
Community Housing Cymru
UK National Commission for UNESCO
Welsh Language Commissioner
Chwarae Teg
Wye Valley AONB
National Library of Wales
Public Transport Users Committee of Wales & Chartered Institute of Logistics and Transport in Wales
Transition Bro Gwaun
One Voice Wales
Neath Port Talbot County Borough Council
Newport City Council
Vale of Glamorgan Council
Monmouthshire County Council
ACCA Wales
Vic Warren – Private Individual
Bat Conservation Trust
Blaise Bullimore – Private Individual
Gwentian Consulting Limited
Bangor University
Scottish Power Renewables
Auditor General For Wales
RSPB Cymru
HEA Wales
Wales Landscape Partnership
Ecostudio
Stop Climate Chaos Cymru
Royal Society of Chemistry
Merthyr Tydfil County Borough Council
Clwydian Range and Dee Valley AONB

### **Promoting sustainable development (section 3)**

Q.1 What are the principal barriers you face to taking more long-term, joined-up decisions?

Q.2 What actions need to be taken, and by who, to reduce or remove these barriers?

### **Evidence in relation to sustainable development (section 4)**

Q.3 What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?

### **A new sustainable development duty (section 6) The level of decision making to which the duty applies**

Q.4 Have we identified the most appropriate level of organisational decision-making at which the duty should be applied? Please explain.

*Yes. It may also be useful for organisations to consider revising their aims and values to ensure compatibility with SD behaviours.*

Q.5 Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?

Q.6 Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?

*Disposal of assets & procurement, to ensure whole life costings are taken into account.*

*Bron Afon supports the WCVA position on public procurement proposing that the Welsh Government's work on Community Benefits is developed into a legal requirement to ensure that all public bodies in Wales consider how their procurement activities contribute to environmental, social and economic benefits.*

Q.7 Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?

*See below*

Q.8 Should budget proposals be subject to the duty? Please explain.

*Yes if it is the case that short term budget setting is working against longer term sustainable development. Is there a way to meet any gaps identified, would participating bodies be more inclined to consider longer term approaches if in identifying gaps in funds) these could be explored?*

## The behaviours approach

Q.9 Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.

Q.10 Are there critical behaviours that we have not identified? Please explain.

*Bron Afon supports the WCVA's position on antipoverty, social justice and equality. An additional (explicit) reference to this behaviour may be useful;*

***Equality and access to a resources.*** *Development that promotes a fairer distribution of resources within environmental limits and that promotes social justice.*

Q.11 What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?

Q.12 How much influence should sustainable development behaviours have over high level decisions – for example, should those decisions be lawful if they have been reached in a way that:

- is consistent with one, some or all of the behaviours;
- broadly reflects the behaviours;
- is not inconsistent with the behaviours?
- are there other options?

## The objectives approach

Q.13 Are there core sustainable development objectives we have not identified above?

*The term wellbeing is used a lot throughout the consultation. Securing the economic, social and environmental wellbeing of people is the outcome from achieving a sustainable Wales. It is an all encompassing term, although arguably it does not incorporate strongly enough one of the key pillars of sustainable development – the need to achieve wellbeing of people within the environmental limits of planet in a way that does not compromise the wellbeing of future generations. This should be considered when looking at what definition of sustainable development should be within the legalisation.*

Q.14 What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?

Q.15 How much influence should the objectives have over high level decisions – for example, should those decisions be lawful:

- only if they actively contribute to one or more of those objectives;
- if they do not detract from any of the objectives;

- even if they detract from some of those objectives, as long as they actively promote others?
- are there other options?

### **The combined approach**

Q.16 What are the advantages and disadvantages of basing a duty on sustainable development behaviours *and* sustainable development objectives?

### **A single sustainable development proposition**

Q.17 What are your views on basing a duty around a single sustainable development proposition?

A single proposition leaves too much to interpretation. The Bill must clearly define sustainable development, rather than leaving interpretation to further guidance, officials or the courts, and must be meaningful and accessible enough to drive/guide effective action.

The definition must make it clear that the implications of Welsh sustainable development policy do not end in Wales, but rather extend globally, and that the wellbeing of people in Wales is an aim but not the sole aim of the legislation.

### **The time organisations may need to comply**

Q.18 How much time should organisations be given to make these changes?

### **The provision of guidance**

Q. 19 Would it be helpful to issue formal guidance to organisations subject to the new duty?

Q. 20 Should any such guidance be issued by the Welsh Government or the new sustainable development body?

### **The repeal of duties**

Q.21 Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?

Q.22 Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?

### **Reporting**

Q.23 Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?

### **The organisations that might be subject to the duty**

Q.24 Are there organisations on this list that should not be subject to the duty? Please explain.

Q.25 Are there organisations that are not listed above but which should be subject to the duty? Please explain.

### **Defining sustainable development**

Q.26 Are there other advantages or disadvantages to defining “sustainable development” and if so, what are they?

Q.27 If we were to define “sustainable development” do you think that the working definition above would be suitable and why?

### **An independent sustainable development body (section 7)**

#### **The purpose of the new body**

Q.28 What should be the overall purpose for a new body?

*The body needs to ensure the legislation is applied consistently across all bodies and should have powers to convene cross sector groups to ensure shared accountability and responsibility as necessary.*

*The body may be required to advise very closely and to this end could attach officers to certain organisations.*

*The body should promote the SD bill and SD agenda to make sure it is understood and accepted by the wider public so as to understand decisions made by Public Bodies for example. Making the link between the wellbeing of future generations and SD (in the same way as the recycling is linked with pro-environmental behaviour by the general public) would be a good start.*

*The body must provide a forum giving voice to people likely to be affected by decisions (this could be businesses connected to, or staff in, the bodies affected as well as the public).*

#### **The preferred approach for the new body**

Q.29 Do you have any views on the preferred approach regarding the main functions of a new body?

#### **A statutory body**

Q.30 Are there significant disadvantages to establishing a new body on a statutory basis?

#### **Proposed functions for the new body**

Q.31 Do you agree with the proposed functions for a new body established on a statutory basis?

Q. 32 Are there other functions which should be considered?

### **Independence and accountability**

Q.33 Do you have particular views on the independence of a new body?

Q.34. Do you have particular views on the accountability arrangements for a new body?

### **How to get involved and have your say Consultation**

#### **dates and where to send responses to**

We want your views on the options for legislation on sustainable development. This consultation will run from 9 May 2012 until 18 July 2012. How to respond Please submit your comments by 18 July 2012, in any of the following ways:

**Email** [sdbill@wales.gsi.gov.uk](mailto:sdbill@wales.gsi.gov.uk)

**Post** SD Bill Team Welsh Government Cathays Park, Cardiff CF10 3NQ

## Proposals for a Sustainable Development bill

### Community Housing Cymru Group response

#### 1.0 About Us

**The Community Housing Cymru Group (CHC Group)** is the representative body for housing associations and community mutuals in Wales, which are all not-for profit organisations. Our members provide over 136,000 homes and related housing services across Wales. In 2010/11, our members directly employed 6,500 people and spent over £800m in the Welsh economy. Our members work closely with local government, third sector organisations and the Welsh Government to provide a range of services in communities across Wales.

#### Our objectives are to:

- Be the leading voice of the social housing sector.
- Promote the social housing sector in Wales.
- Promote the relief of financial hardship through the sector's provision of low cost social housing.
- Provide services, education, training, information, advice and support to members.
- Encourage and facilitate the provision, construction, improvement and management of low cost social housing by housing associations in Wales.

#### Our vision is to be:

- A dynamic, action-based advocate for the not-for-profit housing sector.
- A 'member centred' support provider, adding value to our members' activities by delivering the services and advice that they need in order to provide social housing, regeneration and care services.
- A knowledge-based social enterprise.

In 2010, CHC formed a group structure with Care & Repair Cymru and the Centre for Regeneration Excellence Wales (CREW) in order to jointly champion not-for-profit housing, care and regeneration. The CHC Group recognises that the vision of a sustainable Wales will require radical change in all sectors of society, and that the timescale for this transformation will be the lifetime of a generation.

**CREW's** central role in Wales is to promote integrated, sustainable regeneration and to ensure that the skills to achieve it are developed and supported. CREW's core mission is to:

**Build the capacity of the public service sector, along with its private, community and third sector partners, to deliver integrated, sustainable regeneration in Wales.**

To achieve this mission, CREW supports five key objectives:

- To identify gaps and enable the provision of training, education and skills development to meet the needs of professionals practicing in regeneration activities in Wales.
- To identify excellence in regeneration practice.
- To provide services which inform and disseminate skills and excellence of practice throughout Wales.
- To facilitate the exchange of experience and excellence amongst all those engaged in regeneration related activities in Wales.
- To promote an integrated and sustainable model of regeneration practice.

**Care & Repair Cymru (C&RC)** are the “Older People’s Housing Champion”. We are a national charitable body and actively work to ensure that all older people have homes that are safe, secure and appropriate to their needs. There are 22 Care & Repair Agencies covering the whole of Wales. Each agency provides a wide range of services and support for older and vulnerable people, helping them to remain living independently in their own homes and communities.

Care & Repair Cymru is committed to improving the health & wellbeing of older people in Wales by providing advice and assistance with home improvements, adaptations and general repairs. We work in partnership with a number of organisations including the Welsh Government, Local Government Housing and Social Care Teams, NHS, Occupational Therapists, third sector organisations such as Age Alliance Wales, the Older Peoples Commissioner, and Housing Associations to ensure that older people have access to a range of housing and social solutions that enable them to live in housing that meets their individual needs.

## Introduction

The CHC Group welcomes the Ministerial document, ‘Proposals for a Sustainable Development Bill’, and the opportunity presented through the consultation paper to comment on the key issues raised. Developing sustainability as a Central Organising Principle and a duty for public services to adhere to provides an opportunity in Wales to:

- Improve public service delivery.
- Integrate policy design and delivery in Wales to promote greater well-being.
- Promote social justice and equality.
- Contribute to the eradication of poverty.

Issues of sustainability will need to be a core concern of government and the proposed Bill will ensure that Wales leads in this requirement. There is considerable scope for improving lives through progressive legislation, and while the CHC Group welcomes the intention to introduce an SD Bill, it is also important to note that non-legislative interventions are important in recognising that legislation is only one part of the toolbox. It is also important that clear links are made between the SD bill and the various policy and legislative developments being led through different departments in Welsh Government, including the

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Housing and Planning bills and the Active Travel Bill, in order to ensure that it is effective and part of an integrated change. The achievement of legislative powers and the first wave of legislation contained in these Bills provide Wales with a unique opportunity to develop more integrated policy and practice which has long been recognised as the major requirement for improved public services and maximising outcomes for the population of Wales.

### **Promoting sustainable development (section 3)**

The CHC Group is committed to the idea of a sustainable Wales and there are already many good things that have happened in Wales from which the rest of Britain can learn. The Arbed scheme is a clear example of this as an example of promoting sustainable development with a particular focus on improving the economic, social and environmental well being of communities. RSLs have played a key role in the Arbed programme and have proven experience in combining investment in energy saving measures with job creation. The majority of the works in the Arbed scheme were commissioned and managed by housing associations which achieved significant regeneration outcomes by the use of binding social inclusion clauses in procurement contracts.

Linking regeneration to housing development, renewal and refurbishment can contribute significantly to the economic recovery of communities by providing targeted recruitment and training opportunities at a local level. Therefore, we feel that the Welsh Government's work on Community Benefits should be developed into a legal requirement to ensure that all public bodies in Wales consider how their procurement activities contribute to environmental, social and economic benefits. The CHC Group supports the continued development of the i2i approach and the Can Do Toolkit, and its extended application across the public sector in Wales. In the years between September 2008 and December 2011, i2i have calculated that this work led to the creation of 2,581 job and training opportunities. The SD duty should explicitly recognise and give regard to the international impacts of Wales through the supply chains of the sectors in Wales (the activities of Welsh businesses abroad, and the carbon emissions produced in Wales).

Significant regeneration opportunities exist in the achievement of low-carbon homes in all sectors in Wales and investment in retro-fit can be a major catalyst for regeneration, providing economic impact with positive effects on supply chain SMEs and the labour market, when linked to training and skill development. With around a quarter of Welsh homes now considered to be in fuel poverty, the CHC Group believes that more investment from the EU structural funds is required to reduce our carbon footprint and fight fuel poverty. It is vital that we continue to deliver meaningful regeneration outcomes for the most deprived communities in Wales. This includes finding appropriate routes into work for the long term economically inactive, as well as developing improvements in public services which drive a renewed focus on education and health in our poorest communities.

The challenge of achieving long-term sustainable economic growth should be seen as an opportunity to tackle poverty and disadvantage in some of the most deprived communities in Wales. Development of local energy production and food supplies can provide employment

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and sustainable economic development at community level and contribute to improved GDP and GVA performance whilst challenging joblessness and economic inactivity.

**What are the principal barriers you face to taking more long-term, joined-up decisions? What actions need to be taken, and by who, to reduce or remove these barriers?**

With the First Minister having a strategic lead on energy, the Energy Wales programme should provide the focus for early action. Whilst it is important to maximise energy efficiency and renewable technology installations as priorities to create jobs, reduce fuel poverty, increase our energy security and reduce carbon emissions, research has identified that there are a number of skills and knowledge gaps likely to impede our capacity to meet energy efficiency targets<sup>1</sup>. The report referenced to in the footnote below provides a range of useful recommendations in order to help us meet energy efficiency targets. It is clear from the report that we need increasing awareness of environmental technologies and training providers primed to step up and supply the required training. We need a strong drive forward and a clear direction and incentives for employers to take action. CREW's research in the skills gaps for professional practitioners clearly illustrated that this issue is not limited to the trade level of skills development but identifies critical skill gaps in the professional services sector in key provision including planners, architects, engineers, road designers and landscape architects.<sup>2</sup>

Adding procurement and planning into the mix alongside energy as areas where visible change is evident over the next 12 months is very important in helping us achieve the rhetoric on sustainable development. Targets and outcomes must be credible, challenging and lead to real action not rhetoric. The Act should require Ministers to draw up a SD strategy, setting out how they intend to perform their duty as well as setting out processes which will ensure that policies in relation to SD will be coordinated, consistent and coherent, and how conflicting priorities will be resolved. Meeting these targets will require sustained focus, change management and major investment in design, infrastructure development as well as the marketing necessary to require the necessary behavioural change.

As it stands, it is difficult to understand within the consultation how we will deliver sustainable development in practice and what the next steps are to actually deliver sustainable policies, as the document lacks a commitment to clearly define what sustainable development is. A comprehensive definition of sustainable development on which there is a consensus of support is a prerequisite for delivering the ambitions of the Bill. Multiple stakeholders must feel able to agree and share the core components of sustainability and understand how they can contribute to their achievement. The Bill must lead to informed and deliverable choices and priorities in policy. This will lead to different outcomes from decision making than those which currently drive a non-sustainable growth model in much of the western world. Rural sustainable development should be a separate chapter in order to promote and develop sustainable solutions for rural communities.

<sup>1</sup> <http://www.buildupskillsuk.org/94/BUSUKFinalReportMay2012.pdf.pdf>

<sup>2</sup> <http://www.regenwales.org/en/resources/publications/>

## **Section 6- A new sustainable development duty - the level of decision making to which the duty applies**

### **Have we identified the most appropriate level of organisational decision-making at which the duty should be applied?**

It will be necessary for organisations to revise their aims and values to ensure compatibility with SD behaviours. Since sustainable development is a principle that will require cultural change to be a success, then direction must come from the highest levels to influence overall service delivery. The duty must accentuate positives and not be an 'Administrative burden'. Organisations and staff should be supported to find ways to make SD their own 'central organising principle' in every department so that SD is not an addition to business - it is how we do business. Furthermore, the duty should not disadvantage public funded bodies against the private sector. The duty should lead, within a specified timetable, to clear actions by the Welsh Government and devolved public sector in Wales, which would amongst other things create and sustain 'green jobs', clearly drive down carbon and other greenhouse gas emissions, promote ethical, fair trade and sustainable procurement and deliver public services which meet the social justice and equality needs of the citizens of Wales.

One of the key challenges facing Wales in achieving Carbon Dioxide emissions reduction include the need to reduce carbon impacts from the manufacture and supply of construction materials, space and water heating, power for appliances and lighting, water and sewage treatment, and transport. Spatial factors such as the location of new housing, access to public transport, employment sites and key services will also affect our carbon footprint in the future. Housing associations, through Consortia, are working with local suppliers and partners to help reduce the carbon footprint relating to transporting materials and personnel.

### **Would this approach risk capturing some decisions which should not be subject to the duty? What would these be? Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?**

Disposal of assets and procurement, to ensure whole life costings are taken into account. As noted above, we propose that the Welsh Government's established work on Community Benefits is developed into a legal requirement, through the Sustainable Development Bill, to ensure that all public bodies in Wales consider how their procurement activities contribute to sustainable development. There are already a number of examples throughout Wales of purchasers securing additional social, economic and environmental benefits as part of procurement processes. Community Benefits can contribute to growth through the recruitment and training of economically inactive people and through opening up contract opportunities for smaller organisations.

Furthermore, WG should look at future funding models for RSLs to ensure that we are able to deliver the best possible housing to the highest sustainable standards. This may include

underwriting of private sector loans, and grants that both require and enable us to ensure that whole life costing of housing is taken into full consideration. Budgets should be subject to the duty insofar as it guides sustainable development within the organisation and encourages innovation. WG could also consider enabling pan-Wales procurement of key construction materials to drive down costs.

Key issues in infrastructure investment should be benchmarked for their environmental impact in more rigorous ways than currently evident in planning requirements. The Wales Infrastructure Investment Plan (WIIP) provides a significant opportunity to ensure that large capital projects fulfil sustainable development criteria at every level from carbon impact to community benefit.

### **Should budget proposals be subject to the duty?**

All major budget proposals should be subjected to a sustainability test. It is at this level of decision-making that culture change is most effectively promoted by demonstrating government commitment to the Central Organising Principle. Budget decision-making should promote long-termism and be less governed by the political cycle. Development of new funding streams should promote long-term planning and vision in all public and third sector bodies and lead by example to encourage slower approaches to more 'patient capital' in the private sector where profit is seen as achievable by long-term investments.

### **The behaviours approach**

#### **Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.**

Yes. We should be focusing on the nature of change, and designing change will need to involve leadership from across sectors, with interventions designed to shift behaviours and established routes to quickly address barriers. The behaviours identified currently present some of the key barriers not only to the achievement of sustainability but also to the delivery of high quality public services.

#### **Are there critical behaviours that we have not identified? Please explain.**

We feel that it is important to stress the importance of promoting social justice, equality and anti poverty as key initiatives in delivering sustainable development as part of an integrated approach and an additional (explicit) reference to this behaviour may be useful. We need to deliver services in ways which are thought through, joined up and offer what people need, with organisations working together with a focus on serving citizens, including the most marginalised and disadvantaged.

## **Joined up decision making across organisational boundaries and services**

We welcome the reference to the co-production and co-design agenda in the consultation as a model for delivery of public services within sustainable development principles/behaviours.

In supporting older people to remain living safely in their own homes, it is integral for Care & Repair to work in partnership with health, housing and social care, working across organisational boundaries. The Independent Living Grants (ILG) initiative demonstrates Care & Repair's commitment to working across sectors. ILG is an initiative of the Welsh Government and reflects the collaborative relationship that has been established between, at a national level, Welsh Government, Care and Repair Cymru and representatives of local authorities in Wales. At a local level the initiative sought to utilise the strong partnerships that already exist between Care & Repair agencies and housing health and social care in every county in Wales. The principle objective of the initiative was to help address local government 'waiting lists' for adaptations.

During the pilot programme an ILG adaptation took on average 58 days whereas an adaptation under the traditional DFG process took on average 340 days. Successful partnership working enabled more timely adaptations for vulnerable older disabled people, maximizing independence, reduced the risk of hospital admission, and helped to speed up hospital discharge. Care & Repair Cymru support any initiative which encourages working across organisational boundaries.

## **Focusing on prevention**

The consultation reads; "We think that organisations should focus more on preventing problems occurring, through identifying critical early interventions, which could generate long term cost savings and efficiencies in the future."

Care & Repair Cymru support this focus. Proper investment in preventative services would improve the wellbeing of the people of Wales, whilst saving public funds. Helping more people to live independently reduces demand on the NHS and social services. Every year, for example, one in three people over 65 and one in two over 85 experience falls, many of which are preventable through the provision of inexpensive adaptations to the home. Prevention of such falls would save health and social care funds through the reduction of residential and home care requirements and provision of direct healthcare, including hip replacements due to injury.

The Rapid Response Adaptations Programme (RRAP) is administered by Care and Repair Cymru and is delivered by Care and Repair agencies. The programme facilitates an immediate response to specific needs by providing minor adaptations such as ramps and handrails, to enable people to return to their own homes following hospital discharge. These adaptations can also prevent the need for admission to hospital or residential care. The programme is a fast-response initiative and requires jobs to be completed within 15 working days. Referrals primarily come from local authorities and health sector organisations. RRAP

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is therefore an excellent example of working in partnership for the preventative agenda. RRAP is estimated to save £7.50 for every £1 spent on RRAP in Wales through prevention or reduced need for residential care, reducing hospital admissions from falls and treatments such as hip replacement surgery, and supporting hospital discharge.

To maximise the health-related cost savings from housing investment, the Welsh Government should create clear statutory links between health and housing in Wales, including a statutory duty for Public Health Wales, NHS Health Boards, local authorities and their partners. A report commissioned by the CHC Group and produced by KAFKA, on Supporting Better Health Outcomes in Wales, gave a number of recommendations for the housing sector, including not-for-profit nursing care and early discharge into sheltered and extra care schemes. Services that are preventative, closely related to client need, holistic, and support personal choice and independence, have a cost-saving benefit for health and social care services (i.e. people will be kept out of hospitals and residential care). This preventative ethos also saves money on more costly hospital and residential care stays. The Rapid Response Adaptations programme costs £2.1m per year. It has been estimated, however, that the programme saves around £15m by preventing and reducing the length of stay in hospital and residential care; making a significant contribution to dealing with delayed discharge of care (bed blocking).

In regeneration practice, there is long-term evidence of the value of community engagement and participation. Seeing this as co-production provides emphasis on the benefits which can be achieved by involving beneficiaries in the design, delivery and evaluation of programme and policies which affect them.

We support the role of social enterprises in community regeneration and public service delivery. Housing associations are actively engaged in supporting this and working with partners to maximise the role of social enterprises in regeneration and service delivery. Representatives from housing associations are actively involved in the development of Moneyline Cymru and Credit Unions throughout Wales.

All publicly funded organisations should work to the same SD criteria and targets to ensure proper cross-boundary working. WG could also enable closer working between all publicly funded organisations in Wales so that cross boundary communication is improved. Communication and cooperation with Local Authorities could be improved so that we are reporting on similar SD factors. There is concern that private sector partners will be unwilling to embrace SD duties as they have different drivers and may be reluctant to engage unless they can clearly see how they can benefit.

## The objectives approach

### Are there core sustainable development objectives we have not identified above?

The term wellbeing is used a lot throughout the consultation. Securing the economic, social and environmental wellbeing of people is the outcome from achieving a sustainable Wales. It

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is an all encompassing term, although arguably it does not incorporate strongly enough one of the key pillars of sustainable development – the need to achieve wellbeing of people within the environmental limits of the planet in a way that does not compromise the wellbeing of future generations. This should be considered when looking at what the definition of sustainable development should be within the legalisation. The legal definition of SD in the bill must be precise and we also need to be clear about what a sustainable Wales looks like.

## **A single sustainable development proposition**

### **What are your views on basing a duty around a single sustainable development proposition?**

A single proposition leaves too much to interpretation. The Bill must clearly define sustainable development, rather than leaving interpretation to further guidance, officials or the courts, and must be meaningful and accessible enough to drive/guide effective action. The definition must make it clear that the implications of Welsh sustainable development policy do not end in Wales, but rather extend globally, and that the wellbeing of people in Wales is an aim but not the sole aim of the legislation.

## **The provision of guidance**

### **Would it be helpful to issue formal guidance to organisations subject to the new duty?**

Yes

### **Should any such guidance be issued by the Welsh Government or the new sustainable development body?**

It should be developed collaboratively by the new body following a comprehensive and inclusive consultation programme. Shared ownership of the guidance will be critical to its adoption by a wide range of organisations in Wales.

## **Reporting**

### **Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?**

Yes. Failure to instigate a rigorous reporting framework will simply allow organisations to sidestep the duty. This can be achieved through existing reporting procedures. It should also be considered what sanctions should exist for organisations that persistently fail in the sustainable development duty.

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## **An independent sustainable development body (section 7)**

### **What should be the overall purpose for a new body?**

The body needs to ensure that the legislation is applied consistently across all bodies and should have powers to convene cross sector groups to ensure shared accountability and responsibility as necessary. The body may be required to advise very closely and, to this end, could attach officers to certain organisations.

The body should promote the SD bill and SD agenda to make sure it is understood and accepted by the wider public so as to understand decisions made by Public Bodies, for example. Making the link between the wellbeing of future generations and SD (in the same way as the recycling is linked with pro-environmental behaviour by the general public) would be a good start. The body must provide a forum which will give a voice to people likely to be affected by decisions (this could be businesses connected to, or staff in, the bodies affected as well as the public).

The new SD body should also be genuinely regional and accessible to all. In order to embed SD into the way public and third sector bodies do business, then the Audit Office should ideally look at this as it will be integral to their function. The key question is to decide what value the proposed SD body will add. The purpose of the new body must clearly differentiate it from existing bodies and it should be accessible across Wales. We support the principle of having a Commissioner for Sustainable Development who should become a powerful champion for future generations, people in developing countries and those living in poverty in Wales, who are all impacted on by unsustainable development. The Commissioner should be independent of the Welsh Government and able to hold the Government and public sector in Wales to account. The Commissioner must also be adequately resourced, with staff able to support a significant programme of work including research, policy development, and support for sectors in developing effective sustainable development schemes.

## **Conclusion**

In summary, the new SD Bill presents a great opportunity to improve the quality of life for communities across Wales. However, legislation is only one of a variety of measures that will be needed to deliver the sustainability of housing, health and regeneration outcomes that are necessary for a better Wales.

**Community Housing Cymru Group**  
**July 2012**



To the Sustainable Development Bill Team,

I send this on behalf of the Chairman of the UK National Commission for UNESCO, Professor W John Morgan, as a submission on proposals for a Sustainable Development Bill to be considered by the National Assembly.

The National Commission supports the main-streaming of Sustainable Development (SD) through legislation - which is what is required to make SD tangible for organisations - setting out what the delivery of a sustainable set of services means and with clear definitions of what organisations must do.

**Overarching:**

As the UN Secretary-General has asked the UK Prime Minister, along with the Presidents of Indonesia and Liberia to co-chair the high-level panel on a framework to replace the Millennium Development Goals, best practice in the UK should play an appropriate role in informing the sustainability elements of the UK's recommendations. Welsh policy and other action in this area provides a ready resource.

The UN Decade for Education for Sustainable Development concludes at the end of 2014. It is important that Cymru builds on the lessons learned and plays a leading role in what comes next.

We recommend that the Welsh Government note the report, "The Report, Resilient People, Resilient Planet, from the United Nations Secretary-General's High-Level Panel on Global Sustainability"

**National:**

The integration of sustainable development into government and government agency operations (evidenced by sustainable development action plans) highlights an ongoing and sustained form of Education for Sustainable Development (ESD) and is a key indicator of progress and the ongoing need to monitor and evaluate remains, including work-based learning and development, and the main-streaming of sustainable development learning.

There is a lack of connection, and hence little realised potential for synergy, between learning experiences in formal education and what might be learnt through community involvement and third sector capacity building. In addition, there are tensions between activities that emphasise campaigning / activism/ awareness-raising / behaviour change, and those favouring learning and an exploration of the subtleties, complexities and uncertainties inherent in sustainability. More opportunities need to be created to explore this area.

The scope for government administrations and departments to enhance their collaboration over ESD, and render it more coherent, is considerable, including throughout the UK.

There is increasing interest being shown by the professions in how to incorporate sustainable development into continuing professional development.

### **Actions of other countries**

Japan has integrated Education for Sustainable Development into national curriculum guidelines.

Sweden has made mandatory the teaching and learning of sustainable development at various levels of the education system.

More than 800 professionals from 42 countries in Asia and Africa have taken part in training programmes for education for sustainable development funded by Sweden.

China has designated a large number of experimental schools for Education for Sustainable Development.

The Canadian province of Manitoba is reorienting its schools to address sustainable development.

### **UNESCO and the UN**

As lead agency for the UN Decade, UNESCO is focusing on three key issues - climate change education, disaster risk reduction and biodiversity education and is running pilot country programmes to assist policy-makers and teacher educators to take action on climate change. It has launched a new climate change clearing house database, providing easy and free-of-charge access to hundreds of climate change education resources and materials.

UNESCO's has worked to promote dialogue and learning through its global network of Biosphere Reserves — 580 reserves in 114 countries, naturally including the Biosffer Dyfi Biosphere

The United Nations Decade of Education for Sustainable Development is the work of partnership, bringing together 22 agencies.

The United Nations Children's Fund has integrated education for sustainable development as part of all its work to promote quality education.

Please would you acknowledge receipt of this.

Yours faithfully,

James Bridge

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James Bridge

Chief Executive/Secrétaire Général

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Comisiynydd y  
Gymraeg  
Welsh Language  
Commissioner

Sustainable Development Bill Team  
Welsh Government  
Cathays Park  
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17/07/2012

Dear Sir / Madam

### **Consultation on proposals for a Sustainable Development Bill**

The Welsh Language Commissioner welcomes the opportunity to make comment on the consultation on proposals for a sustainability bill.

The Commissioner's main aim is to promote and facilitate the use of the Welsh language. This is done by drawing attention to the fact that the Welsh language has official status in Wales and by imposing standards upon organizations. This, in turn, will lead to the establishment of rights for Welsh speakers.

Two principles form the basis of the Commissioner's work:

- The Welsh language should not be treated less favourably than English in Wales
- Persons in Wales should be able to live their lives through the medium of Welsh if they wish to do so.

Over time, new powers to impose and enforce standards upon organizations will come into force through subordinate legislation. Until that happens, the Commissioner will continue to inspect statutory language schemes using powers inherited under the Welsh Language Act 1993.

The Commissioner's post was created by the Welsh Language (Wales) Measure 2011. The Commissioner may investigate failure to implement a language scheme; interference

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Welsh Language  
Commissioner

with the freedom to use the Welsh language in Wales and, in the future, complaints regarding the failure of organizations to comply with standards.

One of the Commissioner's priorities is to scrutinise policy developments in terms of the Welsh language. Therefore, the Commissioner's main role is to provide comments in accordance with this remit and to act as independent advocate on behalf of Welsh speakers in Wales who could be affected by this consultation. This approach is used in order to avoid any possible compromise of the Commissioner's functions in terms of regulation, and should the Commissioner wish to formally review the performance of individual bodies or the Welsh Government in accordance with the provisions of the Measure.

The Commissioner will address key legislation and strategies in considering the interests of Welsh speakers in Wales.

### **The Welsh Language: Legislation regarding sustainability**

As the Welsh Government considers legislation in respect of sustainable development, and the possible contents of that legislation, it is vitally important that it considers the wider context of the Welsh language and this area, and the way in which any new legislation can contribute to the undertakings already agreed.

In its **Welsh Language Strategy** the Welsh Government acknowledges the cause for concern for the sustainability of the Welsh language in its traditional Welsh speaking heartlands. The strategy aims to bring about an increase in the numbers able to speak Welsh, and in those that use Welsh on a daily basis. It also builds on efforts to already seen in communities across Wales to take responsibility for the language at a local level, and encourage communities and the organisations that serve them to promote the use of Welsh, thereby encouraging the sustainability of Welsh as a living language within those communities.

The **Welsh Language (Wales) Measure 2011** is the legislation that will have the greatest significance in terms of the Welsh language for public organizations during the coming years. The Welsh Government has included powers within the Measure that will enable the Welsh Language Commissioner to impose policy making standards and promotion standards on organizations. Policy making standards could include duties that require consideration of the effect of policy decisions (whether adverse or positive) on the opportunities for other persons to use the Welsh language. Promotional standards could include duties relating to promoting and facilitating the use of the Welsh language more widely in general terms and in within specific, relevant activities to fulfil the aims and objectives of the Welsh Government's Welsh Language Strategy.



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Welsh Language  
Commissioner

Until standards are imposed in respect of the Welsh language the Commissioner will continue to inspect statutory language schemes through powers inherited under the **Welsh Language Act 1993**. Statutory guideline 3, published under section 9 of the Act, state that organizations have a duty to ensure that, when policies are formulated, the linguistic impact should be assessed and that they should, whenever possible, promote and facilitate the use of Welsh.

The consultation document refers to the Welsh Government's desire to see a bilingual Wales. As the Government forms an opinion on the principles of the Sustainable Development Bill, and decides between 'Factors reflecting sustainable development behaviour' and 'Factors reflecting sustainable development objectives' it is essential that the Welsh language is identified as one of the factors that are to be considered.

The importance of establishing the Welsh language as part of the sustainable development duty cannot be overemphasised. Its influence on the future viability of the Welsh language could be invaluable.

As the work of preparing the Sustainable Development Bill proceeds, I am eager to contribute further to the discussion and to discuss some matters with you directly.

I would like to thank you for the opportunity to provide comments on this consultation.

Yours sincerely,

**Meri Huws**  
Comisiynydd y Gymraeg



**Response to Welsh Government consultation on:**

## **Proposals for a Sustainable Development Bill**

**June 2012**

### **Introduction**

Chwarae Teg is an agency that promotes the engagement of women in the Welsh economy. Funded by the Welsh Government, we provide specialist advice to policy makers on a range of issues that affect women's economic engagement.

Our overall vision is for women to be able to contribute fully to the Welsh economy. In the long-term, the Welsh Government envisages that Sustainable Development will lead Wales towards becoming a:

*'Prosperous, vibrant and innovative, resource-efficient economy' which 'build[s] on its strengths' whilst 'sustain[ing] the natural environment' and promoting 'well-being and healthy living'.<sup>1</sup>*

The Women and Work Commission estimates that the 'under-utilisation of women's skills costs the [UK] economy £15-23 billion a year or 1.3 to 2.0 per cent of GDP'.<sup>2</sup>

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<sup>1</sup> Welsh Government (2012) *Consultation Document: Proposals for a Sustainable Development Bill*, Cardiff, WG



Chwarae Teg promotes inclusive employment practices in order to support women to reach their potential. These practices include flexible working, remote working, work-life balance and equality and diversity policies. Creating workplaces that are committed to such policies, will significantly impact progress on achieving the objectives outlined above. In real terms, these policies can reduce travel to work and ensure full utilisation of the whole workforce in a way that provides them with a good work-life balance and overall well-being which, in turn, will increase productivity and create the prosperous society that Wales strives towards.

We welcome this opportunity to respond to the Welsh Government's proposals for a Sustainable Development (Wales) Bill as we believe that the duty has the potential to influence policy in a way that will move towards the vision of Chwarae Teg and the Welsh Government.

#### Key messages

- Developing workplace culture which allows women to fully utilise their skills is key to fully utilising resources and achieving economic prosperity
- Therefore, the duty should be applied to employment practices within the organisations to which this duty applies in order to create diverse workplaces and make best use of talent
- A sustainable development body should engage and work with stakeholders with specialist expertise such as Chwarae Teg

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<sup>2</sup> Women and Work Commission (2006) Shaping a Fairer Future, Women and Work Commission, London

<b>Consultation questions</b>
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### **Promoting sustainable development (section 3)**

#### **1. What are the principal barriers you face to taking more long-term, joined-up decisions?**

Chwarae Teg believes that culture and attitudes are the main barriers for public bodies and organisations. To change these, the Welsh Government must ensure they are clear about their expectations and secure buy-in from leaders and decision makers within other bodies. It is crucial that public sector heads are committed to achieving the vision in order to inspire their delivery teams to achieve it.

#### **2. What actions need to be taken, and by who, to reduce or remove these barriers?**

Leaders and decision-makers must support the overall vision of Sustainable Development in Wales and promote it to their teams in order to overcome barriers.

### **Evidence in relation to sustainable development (section 4)**

#### **3. What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?**

Chwarae Teg has supported many public bodies to develop policies which support work-life balance. This includes increasing opportunities for flexible and remote working. Such policies increase well-being and reduce environmental impacts associated with travelling to work, thus furthering the sustainable development agenda. The proposed duty has the potential to ensure that inclusive employment practices become embedded within organisational culture.

### **A new sustainable development duty (section 6)**

#### **The level of decision making to which the duty applies**

**4. Have we identified the most appropriate level of organisational decision-making at which the duty should be applied? Please explain.**

Since sustainable development is a principle that will require cultural change to be a success, Chwarae Teg agrees that direction must come from the highest levels to influence overall service delivery.

**5. Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?**

Sustainable development should be considered in all decisions in order to take every step possible to achieve it.

**6. Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?**

Decisions made at higher levels should influence decision making throughout the organisation. If this is successful then all decisions should be captured by this approach.

**7. Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?**

Yes. Specifically, Chwarae Teg believes that it is crucial that decisions regarding employment practices are subject to the Bill. These would include recruitment, flexible working, remote working, equality and diversity, and learning and development policies. Such policies will help to achieve the long-term objectives by fully utilising the labour force, reducing travel to work and promoting well-being through good work-life balance.

**8. Should budget proposals be subject to the duty? Please explain.**

Sustainable development principles should be considered in all decision making.

## **The behaviours approach**

### **9. Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.**

Yes, we believe that the behaviours identified are critical for sustainable development thinking. We would extend engagement to include not only stakeholders who are affected but also those with a particular interest or specialist expertise such as Chwarae Teg.

### **10. Are there critical behaviours that we have not identified? Please explain.**

Chwarae Teg agrees with the behaviours identified.

### **11. What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?**

The advantages of designating behaviours are that it will ensure certain key steps are taken. The danger is that it will encourage a 'tick-box' approach that will cause decision makers to apply sustainable development thinking to only these areas.

### **12. How much influence should sustainable development behaviours have over high level decisions – for example, should those decisions be lawful if they have been reached in a way that:**

- **Is consistent with one, some or all of the behaviours;**
- **Broadly reflects the behaviours;**
- **Is not inconsistent with the behaviours?**
- **Are there other options?**

Decisions should be consistent with one, some or all of the behaviours. This would mean that decisions could be made without engaging with stakeholders if appropriate, providing they are consistent with one of the other behaviours identified.

### **The objectives approach**

**13. Are there core sustainable development objectives we have not identified above?**

Chwarae Teg supports the sustainable development objectives identified.

**14. What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?**

Designating sustainable development objectives as factors to influence higher level decision making will ensure that long-term goals are a clear focus in planning and development.

**15. How much influence should the objectives have over high level decisions – for example, should those decisions be lawful:**

- **Only if they actively contribute to one or more of those objectives;**
- **If they do not detract from any of the objectives;**
- **Even if they detract from some of those objectives, as long as they actively promote others?**
- **Are there other options?**

Decisions should be lawful if they actively contribute to achieving one or more of the objectives.

### **The combined approach**

**16. What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?**

Objectives should be considered within behaviours when planning policy and services. This will ensure that public bodies move towards the long-term sustainable development outcomes.

### **A single sustainable development proposition**

#### **17. What are your views on basing a duty around a single sustainable development proposition?**

Chwarae Teg prefers the combined approach as it sets a number of objectives which will help public bodies to reach the single proposition.

### **The time organisations may need to comply**

#### **18. How much time should organisations be given to make these changes?**

As a minimum, organisations should be able to show within 1 year that they have made progress in developing new approaches that will help them to move towards sustainable development.

### **The provision of guidance**

#### **19. Would it be helpful to issue formal guidance to organisations subject to the new duty?**

Yes. Chwarae Teg believes it would be very helpful to issue formal guidance to organisations bound by the duty. This should include examples of good practice and signposting to organisations such as Chwarae Teg that can provide support for public bodies to achieve their objectives.

#### **20. Should any such guidance be issued by the Welsh Government or the new sustainable development body?**

Guidance may be better received from a Sustainable Development body.

### **The repeal of duties**

Chwarae Teg has no comment to make on the repeal of duties.

## **Reporting**

**23. Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?**

Yes. Organisations should report actions and progress against objectives to provide a measure.

## **The organisations that might be subject to the duty**

**24. Are there organisations on this list that should not be subject to the duty? Please explain.**

**25. Are there organisations that are not listed above but which should be subject to the duty? Please explain.**

We believe that all public bodies and service providers should be subject to the duty. We also believe that all steps possible should be taken to encourage organisations not bound by the duty to adopt sustainable development principles. This might be achieved to some extent through procurement but should also be achieved through the promotion of good practice.

## **Defining sustainable development**

**26. Are there other advantages or disadvantages to defining “sustainable development” and if so, what are they?**

Chwarae Teg believes that defining sustainable development is important in providing clarity.

**27. If we were to define “sustainable development” do you think that the working definition above would be suitable and why?**

Chwarae Teg supports the proposed definition and we agree that social justice, equality of opportunity and conservation of resources should drive decision making.

## **An independent sustainable development body (section**

### **7) The purpose of the new body**

#### **28. What should be the overall purpose for a new body?**

A new sustainable development body should encourage and support public bodies to achieve the best results possible. They should provide advice and guidance through good practice case studies and signposting to organisations that can support the development of new policies and processes to achieve the overall vision such as Chwarae Teg.

### **The preferred approach for the new body**

#### **29. Do you have any views on the preferred approach regarding the main functions of a new body?**

Chwarae Teg believes that the preferred approach to the main functions of the new body is appropriate.

#### **30. Are there significant disadvantages to establishing a new body on a statutory basis?**

Establishing a new body on a statutory basis will help to embed sustainable development into Welsh decision making now and in the future.

### **Proposed functions for the new body**

#### **31. Do you agree with the proposed functions for a new body established on a statutory basis?**

Chwarae Teg agrees with the proposed functions outlined for a sustainable development body. We particularly support the proposed monitoring of 'well-being' and hope that this will inform decisions going forward.

#### **32. Are there other functions which should be considered?**

Chwarae Teg believes that the functions are appropriate.



## **Independence and accountability**

### **33. Do you have particular views on the independence of a new body?**

Chwarae Teg agrees that the body should be separate from the Welsh Government in order to provide impartial advice.

### **34. Do you have particular views on the accountability arrangements for a new body?**

The body should be accountable, reporting publicly on activities and impact on a regular basis.

<b>Final Comment</b>
----------------------

Chwarae Teg supports the proposal to make sustainable development a guiding principle in decision-making for public bodies. We believe that sustainable development is an aim that Wales should strive towards.

For further evidence or case studies, please contact:

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Responses to consultations may be made public - on the internet or in a report. If you would prefer your response to be kept confidential, please tick here: (Checked)

Your name:

Andrew Blake

Organisation (if applicable):

Wye Valley Area of Outstanding Natural Beauty (AONB) Partnership

Email Address:

aonb.officer@wyevalleyaonb.org.uk

Address:

Wye Valley AONB Office Hadnock Road Monmouth Monmouthshire

Postcode:

NP25 3NG

What are the principal barriers you face to taking more long-term, joined-up decisions?:

The Wye Valley Area of Outstanding natural Beauty (AONB) straddles the Wales-England border, therefore there are added complexities to long-term and joined up decisions. The Wye Valley AONB Joint Advisory Committee works in partnership to manage sustainably and overcome the challenges to the natural resource management of this internationally important protected landscape. However the principle barriers are • that most decision making structures are not sufficiently long term to take on the challenges of sustainable development. • a lack of any coherent strategy that integrates the needs of the private sector with those of the public and third sector in any meaningful way, • a lack of policy join-up across sectors and boundaries • a lack of confidence in the current system in relation to its ability to accurately value all relevant environmental goods and services, • a lack of longer-term funding security. For example most strategic development plans have at most a 10 year focus. Where key risks to sustainability are identified, these risks can be easily overlooked or ignored and frequently overridden by short-term 'economic gains' through planning and development control. The sustainability consequences of decisions are not genuinely considered. This is both at local, community council and local authority level, as well as Welsh Government and UK level too. There is currently a lack of overall sustainability vision embedded in all organizations. As a consequence one department may follow a policy or activity that might conflict with others' efforts to achieve sustainability.

What actions need to be taken, and by who, to reduce or remove these

A campaign of raising awareness and understanding about long term sustainability among both the public and strategic players needs to be enacted by a government

barriers?:

led partnership of key players. This should include professional training and regular 'refresher' courses for key policy makers, local (including Community) councillors and local authority and government agency staff. For example contract managers will need to be aware of how to write long term and sustainability considerations into tendering contracts. Once the regular and effective awareness programme is underway then perhaps a programme of enforcement or 'naming and shaming' will need to be implemented to ensure a measure of compliance.

The adoption of an ecosystem approach to natural resource management is a significant progression. Managing the environment as an integrated system is fundamental to achieving sustainable development. To continue on the path of sustainable development a different kind of economic model is needed; one that identifies a different balance between consumption and investment; the split between public, private and voluntary sector expenditure; the nature of productivity and profitability. This will require enhanced investment in sustainable technologies and infrastructures and in the protection and maintenance of the natural environment.

What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies? :

These investments are not the same as conventional investments and they won't necessarily deliver continual consumption growth. This will have to be factored in to future measures of economic resilience. Indicators are useful, but some are influenced by factors that are beyond the control of public bodies eg weather events and climate change variability/unpredictability that cannot be prevented or controlled. Public services could be encouraged to have due regard to national indicators when establishing long term plans, and encouraged to develop their own locally distinctive indicators which can be monitored and reported on an annual basis, for example as in AONB and National Park Management Plans.

Have we identified the most appropriate level of organisational decision making at which the duty should be applied? Please explain:

Yes this seems like the right level, where the influence over sustainability as defined will be greatest, and should not cast too large a burden on public services. It may be appropriate to review this later if the over-arching and most far-sighted level is not achieving results. Some training and support may be needed to help understanding of sustainability and the requirements of the new duty. It is important to recognize the limits to current specialist local authority resources with regard to promoting sustainable development. Some public sector bodies may have even less expertise available in-house, while others have an

	<p>established track record in accounting for sustainability in their work as it is more central to their functions.</p> <p>A sustainable development duty should not increase levels of bureaucracy; however, any decision that is worthy of proceeding should be able to stand up to 'sustainable development' scrutiny. If it does not then it should be reviewed. Similar to the Strategic Environmental Assessment (SEA) process, the 'sustainable development' scrutiny should enhance and refine poor decisions and make them better. There is a concern that this should not be used as an opportunity to remove existing obligations, for example; any obligations currently underpinning the AONB designation. This concern, is based on the misleading portrayal of AONBs, in the Natural Resources Wales consultation document, as restrictive or regulatory instruments rather than enabling designations.</p>
Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?:	
Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?:	<p>It is unclear how this relates to private sector-led major infrastructure projects and for example the privatised utilities companies.</p>
Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?:	<p>This would be helpful as it would bring sustainability down to a practical everyday level too, and help in embedding the key principles of sustainability into everyday practice.</p>
Should budget proposals be subject to the duty? Please explain:	<p>Ideally yes, as this will ensure that sustainability is built into all decisions, however as it should be implemented at a higher level, this should automatically include budgetary decision making. Perhaps it should be stipulated in order to avoid potential ambiguity.</p>
Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain:	<p>Yes, and it is helpful to define these in the way that they have been set out in this paper. However, it is the way that they are applied that will make an activity sustainable or unsustainable, and in the context of limited natural resources.</p>
Are there critical behaviours that we have not identified? Please explain:	<p>No</p>
What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?:	
is consistent with one, some	

or all of the behaviours:  
broadly reflects the  
behaviours:  
is not inconsistent with the  
behaviours?:

In legislating for sustainable development, there must be complete clarity over what the government is actually making illegal, rather than solely focusing on the scope of what must be done in order to comply with the act. It is our view that a duty to have regard, supported by a workable framework based on the principles of proportionality and relevance, would help define what constitutes a contravention of the act. A failure to accurately assess the relevance of a decision or action in relation to achieving sustainability objectives would constitute a contravention. Likewise, a failure to respond proportionately to any assessment of relevance would also constitute a contravention. This approach would provide a useful framework for not only those bodies subject to the duty, but also private bodies looking to ensure their development proposals are compliant.

are there other options?:

‘Having regard’ comprises two linked elements: proportionality and relevance. In relation to a sustainable development duty this would mean any public body (or any organisation captured by the duty) in performing any functions in relation to, or so as to affect sustainable development should give due weight to the sustainability factors in proportion to their relevance. This requires more than simply giving consideration to the need to further sustainable development. Proportionality requires greater consideration to be given to decision making in relation to functions or policies that have the most effect on the purpose of furthering sustainable development. Where changing a proposed policy would lead to significant benefits to the purpose of furthering sustainable development, the need for such a change will carry added weight when balanced against other considerations.

Are there core sustainable development objectives we have not identified above?:

There appears to be no objective designed to stimulate technological advance.

What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?:

This is a helpful approach, but it is vital that the sustainable development factors are embedded within a policy framework designed to support the expression of the desired behaviours. The objectives and behaviours should be seen together, rather than in isolation from one another or interpretations of them will vary from organisation to organisation depending on the expertise and knowledge of the officer or group involved. This

will only happen if there is a transparent join-up between policy areas across government. However, public policy has a tendency to place too much emphasis on deliberative decision-making, leading to an assumption that behaviour change can only be achieved by appealing to knowledge and values. Behaviours can be influenced by less tangible social factors in addition to deliberate decision-making and the role of positive leadership and role models, both on an individual and organisational level is essential in this respect.

only if they actively contribute to one or more of those objectives:

if they do not detract from any of the objectives:

even if they detract from some of those objectives, as long as they actively promote others?:

are there other options?:

In legislating for sustainable development, there must be complete clarity over what the government is actually making illegal, rather than solely focusing on the scope of what must be done in order to comply with the act. It is our view that a duty to have regard, supported by a workable framework based on the principles of proportionality and relevance, would help define what constitutes a contravention of the act. A failure to accurately assess the relevance of a decision or action in relation to achieving sustainability objectives would constitute a contravention. Likewise, a failure to respond proportionately to any assessment of relevance would also constitute a contravention. This approach would provide a useful framework for not only those bodies subject to the duty, but also private bodies looking to ensure their development proposals are compliant.

‘Having regard’ comprises two linked elements: proportionality and relevance. In relation to a sustainable development duty this would mean any public body (or any organisation captured by the duty) in performing any functions in relation to, or so as to affect sustainable development should give due weight to the sustainability factors in proportion to their relevance. This requires more than simply giving consideration to the need to further sustainable development. Proportionality requires greater consideration to be given to decision making in relation to functions or policies that have the most effect on the purpose of furthering sustainable development. Where changing a proposed policy would lead to significant benefits to the purpose of furthering

	<p>sustainable development, the need for such a change will carry added weight when balanced against other considerations.</p> <p>The combined approach is preferred because it provides the depth and breadth of analysis in decision making that will most likely lead to more sustainable patterns of development. However, it is recognised that this approach requires a level of knowledge and expertise in sustainability that is probably lacking in most organizations, except for specialist officers who have responsibility currently for sustainability. Also there is no specific cross referencing in this consultation to either the Environment or Planning Bills, nor an indication as to how the eventual Sustainable Development Bill will act as the foundation for all others. These and other areas of emerging legislation must support one another, and the mechanism for doing so should be made obvious.</p>
What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?:	<p>The SD proposition set out in the paper is much too generalised to help to define sustainability and guide decision making in the right direction. The combined option is preferred for the reasons set out above.</p> <p>A ‘duty to have regard’ would produce the sort of tangible change needed in the short to medium term as long as it is supported by a workable framework. There is clear evidence that a ‘duty to have regard’ is working within the sphere of disability rights, equality and protected landscapes. Some organisations have already made considerable progress on this while others have developed this aspect more slowly as it is not ‘core’ to their work.</p>
What are your views on basing a duty around a single sustainable development proposition?:	<p>This will be essential to help with understanding of what will be quite a new concept for some. ‘Having regard’ comprises two linked elements: proportionality and relevance. In relation to a sustainable development duty this would mean any public body (or any organisation captured by the duty) in performing any functions in relation to, or so as to affect sustainable development should give due weight to the sustainability factors in proportion to their relevance. This requires more than simply giving consideration to the need to further sustainable development. Some people will find it difficult to understand the application of sustainability to their work, particularly those in the non-environmental sectors. Those in the environmental sector may need help with the social, wellbeing and economic aspects of sustainability.</p>
How much time should organisations be given to make these changes?:	
Would it be helpful to issue formal guidance to organisations subject to the new duty?:	
Should any such guidance be issued by the Welsh	<p>A combination of both will be the ideal solution.</p>

Government or the new sustainable development body?:

Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?:

Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?:

Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?:

Are there organisations on this list that should not be subject to the duty? Please explain:

Are there organisations that are not listed above but which should be subject to the duty? Please explain:

Are there other advantages or disadvantages to defining “sustainable development” and if so, what are they?:

There is no specific cross referencing in this consultation to either the Environment or Planning Bills, nor an indication as to how the eventual Sustainable Development Bill will act as the foundation for all others. These and other areas of emerging legislation must support one another, and the mechanism for doing so should be made obvious.

There is no specific cross referencing in this consultation to either the Environment or Planning Bills, nor an indication as to how the eventual Sustainable Development Bill will act as the foundation for all others. These and other areas of emerging legislation must support one another, and the mechanism for doing so should be made obvious.

Yes this would be less burdensome than establishing a new reporting regime, and help with embedding sustainability into policy and practice.

No

We support the principle of a sustainable development duty being placed on ‘organisations delivering public services in Wales’ but would like clarity over whether this is actually what the Welsh Government means. There are many organisations delivering public services in Wales that do not operate within the public sector. Many charities, social enterprises, CICs etc. deliver public services and the impact of this proposed duty on them, if only through the acceptance of grant aid from public sector bodies, could have significant unintended consequences in relation to their ability to deliver in competition with the private sector. Additionally, we are unclear whether the public utilities would also have to comply with the Act. This would need clearly stating if the case. Also, particularly for the Wye Valley AONB, there are impacts on Wales of English public bodies in relation to cross-border issues. We are interested in how far the duty might extend in these circumstances.

A broad definition of sustainability will be useful for fostering a shared understanding of the concept for all public bodies. However we consider that it would be more appropriate for public bodies to ask the question



	<p>“How might continuous improvement in the sustainability of x, y, or z be secured?” In this way, the determination of what sustainable development would look like in certain situations and/or under certain conditions is likely to be different.</p>
<p>If we were to define “sustainable development” do you think that the working definition above would be suitable and why?:</p>	<p>As a broad definition it is acceptable. However the key issue is how sustainability is interpreted and implemented at different locations and under different circumstances.</p>
<p>What should be the overall purpose for a new body?:</p>	<p>The new SD body should be there to advise and support public bodies, while the Auditor General will effectively police the new duty and ensure that reporting is done effectively. It would also be useful if the Auditor General fulfills the same function with regard to the Welsh Government as there are continuing issues with certain areas of the Government not having due regard for the full range of SD issues and creating conflicts between different policy areas.</p>
<p>Do you have any views on the preferred approach regarding the main functions of a new body?:</p>	<p>No</p>
<p>Are there significant disadvantages to establishing a new body on a statutory basis?:</p>	<p>No</p>
<p>Do you agree with the proposed functions for a new body established on a statutory basis?:</p>	<p>We support the proposal to establish an independent Sustainable Development Body and agrees with the functions outlined.</p>
<p>Are there other functions which should be considered?:</p>	<p>We would like to see specific support provided by this body to further independent thinking on sustainable development. It should be recognised that sustainable development is at the heart of decision making within AONBs. Therefore the relationship will need to be determined between the new SD body, the new Single (Environmental) Body and AONB Partnerships, recognising the vital role that AONB management plays in relation to the management of our natural capital, ecosystem service delivery and environmental justice, itself an important component of social justice.</p>
<p>Do you have particular views on the independence of a new body?:</p>	<p>Independence from Welsh Government and other public bodies is an important aspect of the new body, as it can remain objective.</p>
<p>Do you have particular views on the accountability</p>	<p>No</p>

arrangements for a new body?:

Do you have any other related queries or comments?:

Since 2001 the Sustainable Development Fund (SDF) has allowed AONB Partnerships to explore ways of implementing the principles of sustainability, removing obstacles to sustainable development, and developing models for the sustainable management of the countryside that could be applied more widely in Wales. Additionally, AONB Partnerships have, through the SDF, been successful at generating greater awareness and understanding of sustainability. The investment of the Welsh Government in developing this body of work has resulted in a valuable resource that can help improve the quality and approach to sustainable development in Wales.

## **List of consultation questionsPromoting sustainable development (section 3)**

Q.1 What are the principal barriers you face to taking more long-term, joined-up decisions?

Current financial regulations/system. Very limited money carry over between years & uncertainty over future budgets. Different political agendas/core functions in different bodies.

Q.2 What actions need to be taken, and by who, to reduce or remove these barriers?

WG to change financial system. Create financial incentives to become sustainable.

## **Evidence in relation to sustainable development (section 4)**

Q.3 What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?

No opinion on this point

## **A new sustainable development duty (section 6) The level of decision making to which the duty applies**

Q.4 Have we identified the most appropriate level of organisational decision-making at which the duty should be applied? Please explain.

Duty needs to reside at CEO level.

Q.5 Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?

Yes, difficult to specify but would need guidance within internal procedures to help avoid capturing inappropriate issues.

Q.6 Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?

If at CEO level and in "Remit Letter" & Operational Plans should capture relevant decisions.

Q.7 Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?

Internal operations could have a significant impact on sustainability. These could include transport, estates, procurement energy conservation measures'. However rather than be prescriptive over inputs, it would be better to set output based measures otherwise you risk creating a bureaucratic system that fails to deliver services.

Q.8 Should budget proposals be subject to the duty? Please explain.

No – financial incentives/penalties should be based on outputs rather than trying to control the financial inputs.

### **The behaviours approach**

Q.9 Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.

The behaviours cover the necessary aspects, long term thinking & planning is key.

Q.10 Are there critical behaviours that we have not identified? Please explain.

Yes – there needs to be specific consideration of the remit of heritage bodies – they have to preserve cultural and knowledge based resources for future generations – consequently the sustainability remit is very wide and long term.

Q.11 What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?

Can be verified if Option Appraisals are used in the decision process. However there is a great danger that the process will become bureaucratic and unworkable.

Q.12 How much influence should sustainable development behaviours have over high level decisions – for example, should those decisions be lawful if they have been reached in a way that:

- is consistent with one, some or all of the behaviours;
- broadly reflects the behaviours;
- is not inconsistent with the behaviours?
- are there other options?

There needs to be an overall assessment rather than considering individual behaviours, because there is likely to be a need to balance conflicting sustainable issues.

### **The objectives approach**

Q.13 Are there core sustainable development objectives we have not identified above?

Not in the current climate, but there may be issues that have not been identified that could arise on the future.

Q.14 What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?

The list would probably not be definitive. Periodic review required.

Q.15 How much influence should the objectives have over high level decisions – for example, should those decisions be lawful:

- only if they actively contribute to one or more of those objectives;
- if they do not detract from any of the objectives;
- even if they detract from some of those objectives, as long as they actively promote others?
- are there other options?

As per Q12

### **The combined approach**

Q.16 What are the advantages and disadvantages of basing a duty on sustainable development behaviours *and* sustainable development objectives?

Difficult to define, complex and difficult to implement.

### **A single sustainable development proposition**

Q.17 What are your views on basing a duty around a single sustainable development proposition?

This could be too vague and therefore impossible to measure performance against it.

### **The time organisations may need to comply**

Q.18 How much time should organisations be given to make these changes?

Depends on the complexity and remit of the organisation.

### **The provision of guidance**

Q. 19 Would it be helpful to issue formal guidance to organisations subject to the new duty?

Yes, but it really needs to be quite specifics

Q. 20 Should any such guidance be issued by the Welsh Government or the new sustainable development body?

No opinion on this point

### **The repeal of duties**

Q.21 Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?

No opinion on this point

Q.22 Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?

No opinion on this point

### **Reporting**

Q.23 Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?

Simplest way of reporting/monitoring would be through the Annual Report.

### **The organisations that might be subject to the duty**

Q.24 Are there organisations on this list that should not be subject to the duty? Please explain.

No opinion on this point

Q.25 Are there organisations that are not listed above but which should be subject to the duty? Please explain.

Police;

### **Defining sustainable development**

Q.26 Are there other advantages or disadvantages to defining “sustainable development” and if so, what are they?

Needs to be defined or it will not be understood.

Q.27 If we were to define “sustainable development” do you think that the working definition above would be suitable and why?

Yes, covers the relevant aspects.

### **An independent sustainable development body**

**(section 7) The purpose of the new body**

Q.28 What should be the overall purpose for a new body?

Propose purpose appears fine.

### **The preferred approach for the new body**

Q.29 Do you have any views on the preferred approach regarding the main functions of a new body?

Advisory on SD issues.

### **A statutory body**

Q.30 Are there significant disadvantages to establishing a new body on a statutory basis?

No opinion on this point

### **Proposed functions for the new body**

Q.31 Do you agree with the proposed functions for a new body established on a statutory basis?

Yes

Q. 32 Are there other functions which should be considered?

No

### **Independence and accountability**

Q.33 Do you have particular views on the independence of a new body?

Should be independent of government

Q.34. Do you have particular views on the accountability arrangements for a new body?

No opinion on this point

Substantive Comment on the Pre White Paper Consultation on the  
“Proposals for a Sustainable Development Bill”

The proposals neglect the over-riding significance of transport issues to future sustainable development. The only mention of transport is in the context of exploring ICT (Information and Communications Technology) as a substitute for transport, in a cited case study from BT.

Whilst this possibility is important (and itself often overlooked), this only covers the replacement of some passenger travel for individuals, whilst much will need to continue. It is important that that continuing personal transport is as sustainable as possible. Moreover the ICT initiative clearly does not touch on freight transport .

The danger with a very ‘high level’ approach to sustainability is that key interactions – where Transport is a stark example – may be overlooked by those who do not explicitly deal with such topics regularly, thus effectively ‘building in’ the omission.

This issue arises especially at the interface between land-use planning and transport, where unless appropriate sustainable transport provision is ‘built in’ at all levels – from strategic to local – from the very beginning, it becomes extremely difficult (and expensive) to subsequently ‘retro fit’ it.

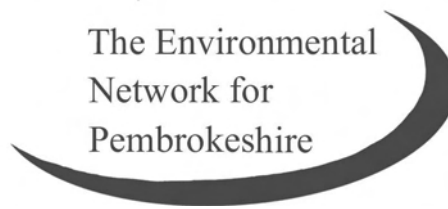
There is a brief mention of Local Development Plans where para 52 comments that “Local planning authorities are also required by legislation to prepare a Local Development Plan with the objective of contributing to the achievement of sustainable development”. Nevertheless transport receives no attention in the current high level consultation, nor indeed explicitly in the recent (March 2012) consultation on “Planning for sustainability: The presumption in favour of sustainable development”. The associated draft revision of PPW Chapter 7 flowing from this latter exercise does at least recommend that: “New *{rural}* development sites ...should generally be located within or adjacent to defined settlement boundaries, **preferably where public transport provision is established** (Para 7.3.2, emphasis added). However, this is only picked up at the ‘detail’ level.

The fear is that professionals and politicians who do not regularly deal with transport issues directly, and who have therefore failed to pick up the significance of such transport issues to the sustainable discharge of their particular areas of concern, will continue to be unaware of the significant interactions, and alas continue to create unsustainable problematic transport situations.

In summary, the role of transport in achieving (or potentially frustrating) sustainable development is so crucial that it requires some explicit attention at the highest level of analysis; it is not sufficient to assume that these issues will be addressed effectively at the more detailed levels if this is not done.

Chris Yewlett 17 July 2012





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Web: [www:tenp.org.uk](http://www:tenp.org.uk)

Date: 1<sup>st</sup> July 2012.

**SUBJECT: Proposal for a Sustainable Development Bill: Consultation Document (WG15440), May 2012.**

Dear Sir/Madam.

1) TENP Trustees very much appreciate the opportunity to comment on the 'Proposal for a Sustainable Development Bill' consultation document and have made constructive suggestions where appropriate. We also refer to discussions which took place at the Pembroke consultation event, on the 26<sup>th</sup> June, where they are relevant and help to clarify our contributions.

We provide, below:

- **Section 1:** A Summary of our comments and concerns, [paragraphs 2 (i) – 2 (x)],
- **Section 2:** Detailed comments on the Ministerial Foreword and the Executive Summary, [paragraphs 3.1 – 10.5],
- **Section 3:** Additional Comments on the main text, [paragraphs 11.1 – 11.14 ], and,
- **Section 4:** Answers to the Consultation Questions 1-35.

**In the interest of maximum engagement we would very much appreciate your response to our list of comments in Section 1.**

**Section 1: Summary of Comments**

2) We wish to say from the outset that we find the document extremely disappointing, particularly as:

- i) Both the Minister and the First Minister marginalise environmental objectives and are taking a 'business as usual' approach to growth rather than recognising the need for a transformation of our economy based on sustainability principles. As was mentioned at the Pembroke consultation: *"Organisations need to articulate the principles and beliefs that guide decisions"* T. Leahy. Unfortunately, no recognised SD principles are referred to by the Ministers, or in this consultation paper, on which policy and action can be based. This is a reversal in WG policy since 2008.
- ii) There seems to be a reluctance to set clear outcomes and targets. We believe that a duty should make clear to the public bodies what they are required to do in order to achieve outcomes. This consultation paper only considers thinking and behaviour, not actions and outcomes. This is a particular concern as the Pembroke consultation discussions included the recognition that the SD Indicators for Wales have no influence of policy and decisions locally.
- iii) You focus on organisational thinking (long-term, cause not effect, etc) yet provide no evidence that this 'new' thinking will lead to sustainable outcomes. In fact this approach reflects belief based policy making, i.e. the assumption that change will take place within

organisations and that the resulting outcomes will inevitably be sustainable. This contradicts all research evidence into public policy implementation.

- iv) By taking a 'systems approach' and emphasising thinking and behaviour WG ignore the critical influence of the substance. For example, a long-term view is only of any consequence to a future sustainable society if the subject of that long-term view is an issue which will help achieve that goal. Rising CO2 levels, resource depletion, and biodiversity loss all require action now because, in the long term, our survival depends upon it. However you leave the choice of substance 'open ended', discretionary, and whatever is considered necessary. As a result there is no guarantee that these issues will rise to the top of the policy agenda and, more importantly, that action will be taken. Your failure to adopt action related Sustainable Development (SD) principles is a significant omission in this regard.
- v) Your examples of SD, such as the TV studio development on a brown field site, fail to satisfy evidence based evaluation linked to recognised SD principles.
- vi) You assert that SD is about how we "provide sustainable economic growth and regeneration" but at no point do you explain what you mean by this phrase, nor how to achieve it. There is an argument that not only is this phrase a contradiction in terms but it completely ignores the impact and likely consequences of the current 'age of austerity' on individuals, communities, public bodies and industry across Wales.
- vii) Your approach to transparency, accountability and scrutiny is flawed because you restrict the proposed duty to high level decisions which have to, 'only consider SD factors', rather than apply them, and you rely on an annual report for accountability. Not only is this a 'light touch' approach but it ignores the opportunity to embed SD principles in the day-to-day decisions of public bodies which the public is already entitled to see prior to those decisions being made.
- viii) You fail to adopt establish clear operational SD principles on which public bodies can base decisions and actions. The consultation paper refers to SD as a Central Organising Principle but only provides a definition of SD, ways of thinking (behaviour) and objectives. No principles are presented or explained.
- ix) Your definition of SD fails to recognise the most pressing issue which is resource depletion. We suggest that a more appropriate definition would be:

*"Sustainable Development provides a framework for redefining progress and directing our economies to enable all people to meet their basic needs and improve their quality of life while ensuring that the natural systems, resources and diversity upon which we depend are maintained and enhanced for our benefit and that of future generations"*

- x) 'Good Governance', and 'Using Sound Science Responsibly' are missing from your list of SD principles. This is a worrying omission and reflects badly on your understanding of, and approach to, SD.
- xi) Related to governance, there is no reference in this paper to the role of the voluntary sector in the delivery of this new duty. This is odd as many public bodies, depend upon the 3<sup>rd</sup> sector to deliver public services.
- xii) Two fundamental questions arise from this consultation paper:
  - a) Will this consultation paper give people a clear understanding of what SD is (and it's principles) and what WG is asking them to achieve?
  - b) Is it clear how tension between economic, environmental and social objectives can be resolved?

In both cases, in our view, the answer is No.

## Section 2: Comments on the Ministerial Forward and Executive Summary

### Ministerial Foreword

3.1 The Minister conspicuously fails to refer to: resource depletion, the need to dramatically reduce our ecological footprint, the reality of a low /no growth economy in Wales, and public sector funding reductions, as providing the most challenging context for introducing a Sustainable Development Bill. The fact that: child poverty has reached 200K in Wales, that Wales is hugely dependent on public sector funds, in some local economies as high as 65%, and that we are singularly failing to stem the loss of biodiversity and eco-systems due to our addiction to unsustainable development (nutrition, transport and construction account for 80% of bio-diversity loss, ref EU) suggest to us that a fundamental transformation is needed to our society and how it functions. This is not scaremongering. A recent publication has made the case that the UK is a de-developing economy and is weak (because it is):

*“dependent on outsiders for finance, skilled workers and energy supplies”* adding,

*“The genuine worry is that we will endure falling living standards - actually get worse off. To arrest our submerging status we need a development model. There has to be an acceptance that the country has hit rock bottom and needs to change. This has never happened in the UK, and even now the country does not seem ready for the sort of cathartic moment that the defeated Axis powers had at the end of the second world war”,* (Elliot and Atkinson, ‘Going South: Why Britain Will Have A Third World Economy by 2014’).

3.2 Within the UK, Wales is a relatively depressed with declining GDP, educational achievement dramatically slipping down the international league table, increasing demands for adult care services, and with investment in capital projects strictly limited as the South East of England attracts the bulk of funding for the UK. The result is that social tensions are emerging as a result of increasing inequality and relative poverty and the resources available to respond are diminishing. According to the IMF, social stability in the developed world is at risk (speech at the Rio Conference 2012).

3.3 Given this context we feel that this foreword fails to grasp the nature, scale and urgency of the task facing us and also fails to recognise that, paradoxically, these current and emerging conditions mean that Wales is well placed to make the fundamental transformation to a sustainable future which is required and inevitable.

3.4 This concern was reinforced at the Pembroke consultation event where the First Minister stated that the priority is the economy and employment and that “we need a distinct Welsh solution”. He made no reference to environmental limits, nor the potential for a ‘green economy’, nor the fact that the biodiversity and ecosystem assets, on which our future depends, are being stripped. This does not appear to us to make Wales distinctive nor live up to the rhetoric for a sustainable future.

3.5 The reality is that in 2008 WAG produced an advice note for local authorities: ‘Sustainability Appraisal and Community Planning’ which incorporated the UKSDC’s 5 SD principles. This current consultation paper refers only to behaviour and objectives. In our view this is a case of ‘one step forward two steps back’. It is, perhaps, no surprise that Wales, like every other country, has responded to the credit crunch and austerity measures by prioritising short-term political and economic concerns. However this completely contradicts the exhortation in this consultation paper for public bodies to change behaviour and take a long term view! The only conclusion that can be drawn for this is that policy and action are being driven by short-term concerns and that as a result SD has been pushed down the political agenda. The opportunity and need to transform the economy and society of Wales to a sustainable one is being ignored.

### Executive Summary

#### **4) Thinking Differently.**

4.1 The terms 'sustainable economic growth' and 'strong economy' are used without any explanation, as though they are a 'good' and a 'given' and in no need of explanation. Our view is that this is not acceptable and that the public deserve greater clarity and responsibility from our policy makers.

4.2 We urge you to 'spell out' what you mean by these terms so that we can have a meaningful public discussion.

4.3 We wonder how the word '**sustainable**' is being used. What is it that will achieve the strong future, well being and quality of life you seek to achieve? Our fear is that this prefix in this context means continuous. The use of the word '**economic**' in the context of sustainability is odd as currently no development is economic if one takes into account the cost of externalities. In fact, for decades, growth has been uneconomic as it has led to rising CO<sub>2</sub> levels, the asset stripping of the biodiversity that underpins our existence, and the depletion of key resources, and increasing waste. **Growth** is a contentious word because to reject it is seen as heretical. It is assumed to be a 'good'. However the reality over recent decades is that growth, globally, is limited (hence the intense competition to attract it) and Wales, as a geographically peripheral nation, has consistently experienced economic activity below the EU average. Nevertheless the attempt to attract and generate conventional growth continues with all the associated negative consequences, to the environment and to individual and communities. The benefits of growth do not 'trickle down' to all members of society, hence the massive inequalities we are currently experiencing and which have existed, to a lesser degree, for decades. It is therefore imperative that WG indicates what sort of growth it considers to be congruent with sustainable development principles.

4.4 For us this paragraph reflects 'business as usual' and a level of complacency which is astounding given the rapidly deteriorating global and national conditions. We suggest that WG considers strategies that are set against the possibility that the economy will remain stagnant or worse, in conventional economic terms, but that conform to sustainable development principles and will produce a sustainable future. The important thing is to recast the prospect of change and not to see it as a threat but an opportunity for improvement, and to consider the possibility that 'growth', for all the rhetoric and expectations to the contrary, benefited only a few of us. The RSA (Royal Society for the encouragement of Arts, Manufactures and Commerce) has taken this approach and produced a 'Plan C' comprising 6 strategies. (For more information go to, [www.thersa.org/projects/time-for-a-plan-c](http://www.thersa.org/projects/time-for-a-plan-c)).

4.5 We appreciate that WG has been trying to embed SD thinking since 1999 but, by your own admission, with limited success. TENP Trustees have worked in and with the public sector over a number of decades, and we are not surprised by the claim that a long-term thinking is already considered in decision making. What it is critical to recognise is that this has taken place without SD as a COP and led to unsustainable development.

4.6 Similarly there is nothing radical or revolutionary about focussing on causes not symptoms or promoting joined up delivery. Both of these ways of thinking have been encouraged and adopted in recent decades not least because they can lead to a cost savings and efficiencies. Again there is no evidence that they have been responsible for SD outcomes

4.7 You also ask decision makers to "consider how to integrate and balance economic, social and environmental objectives", which they already do implicitly, if not explicitly. This raises two concerns:

- a) it is not made clear what 'to integrate and balance' actually means nor what would constitute meaningful consideration and what would constitute an appropriate outcome, and,
- b) it is not made clear how the, alleged, new thinking will enable this to happen.

4.8 Put bluntly, TENP Trustees fail to see how SD will be the outcome of this new thinking. Furthermore the issue of how to resolve competing objectives is unresolved and left to local discretion, with no indication as to how the community and voluntary sectors are expected to contribute, if at all.

4.9 We ask you to accept that a Sustainable Society, as envisioned by WG, will only evolve as a result of day-to-day decisions and actions based on the application of a clear set operational principles. Clarity is critical so that the principles cannot be hi-jacked or misinterpreted. We provide more detail below in para 6.3.

***Fit for the Future:***

5.1 Clearly public sector bodies should be thinking beyond the short term and public services should be cost-effective.

5.2 Dealing with root causes is logical, however your selection of issues in this paragraph: lack of education (do you mean low attainment?), lack of health (do you mean poor health?), and disengagement from society (who? the poor or the rich or both?) is not accompanied by the causes, what are they? How you define 'the problem' will influence the policy response. Are the causes pathological or structural?

5.3 More worrying, the issues you offer have been with us for decades and seem stubbornly entrenched, why is this? Is it really just a matter of fine tuning the 'organisational architecture'? You fail to identify the emerging and pressing ecological and environmental issues which have a profound effect on, and implications for, wellbeing, health and skill needs, such as: global warming, the continuing carbonisation of our economy, our dependence on scarce and depleting resources, the failure to recycle and re-use, over-intensification of agriculture, etc. It seems to us that your selection of issues is conveniently conventional. They require no fundamental rethinking of your current policy agenda, and they reflect the inertia in your organisational thinking and the prevailing 'political agenda'.

5.4 You call for a 'balance' and the need for a strong economy, strong Welsh culture and a robust environment. This is fine but meaningless rhetoric. What is this concept of 'balance'? What is the relationship between economy, society and environment and how does it operate in practice (i.e., how does change in one affect the other two? What priority is to be given to the social and environmental components of economic policy, and vice versa?). Without this understanding intervention through public policy will be aimless with both intended and unintended outcomes, possibly disastrous.

5.5 What is missing here is an appreciation of context and content. Your preoccupation is with issue selection and delivery processes. However, you fail to appreciate that the purpose of policy determines the success or failure of implementation. Essentially you are discussing policy in the abstract and avoiding any reference to clear outcomes and the principles which need to be applied to achieve them. Your choice of future (or alternative) scenarios is missing, other than in the most general terms. The reality for all public bodies is that there is a tendency to avoid change by assuming a future which is conducive with the prevailing organisational culture and imperatives. The result is that when dramatic change takes place the response is slow, and inadequate.

### ***The heart of everything we do:***

6.1 We fully appreciate that WG is committed to Sustainable Development, however we are not convinced that clear and appropriate SD principles are sufficiently well understood and adopted across public bodies in Wales. SD is not as simple as selecting a single objective, (eg, well being), or a behaviour, (e.g., a long term thinking), or bland and simplistic distinctions between; economics, social and environmental, as though they are distinct and separate.. 'Cherry picking' avoids difficult decisions and, more importantly, avoids recognising that decisions have to take into account a number of principles. In the case of the 5 UKSDC principles, which you have chosen not to adopt or apply in this consultation paper, they are inter-related and mutually reinforcing. They are also significant because are that they are 'active', i.e. they suggest and invite action, and they adopt a long-term perspective.

6.2 We feel the need to present these principles and suggest the sort of actions which public bodies might take. In doing so we are not suggesting that specific actions should be imposed, after all some public bodies may already be carrying them out. This last point raises two other issues for WG:

- i) How do you ensure that a public body will not simply re-classify existing activity to satisfy WG rather than carry out additional activities, and
- ii) How do you ensure that the collective effort by public bodies to deliver SD activities is not overwhelmed by existing and additional unsustainable development?

### **6.3 UKDSC SD principles:**

- i) **Living Within Environmental Limits:** respecting the limits of the planet's environmental, resources and biodiversity-to improve our environment and ensure that the natural resources needed for life are unimpaired and remain so for future generations.

It is clear that across the UK and EU there are real concerns that this principle is not being expressed. Bio-diversity targets are being missed and environmental policies and regulations are not being implemented (see EU Bio-diversity strategy 2020). The result is that we are asset stripping and building up long-term resource depletion problems as a result of unsustainable nutrition, transport, and development decisions.

Current trends will result in severe natural resource loss and the dramatic loss of bio-diversity and eco-systems. These are the resources on which our existence depends: food, water, habitat, and which are at risk (ref: Blue Planet synthesis paper).

A long term view would be to take immediate action to:

- \*Raise the priority of policies and services that protect bio-diversity by investing more resources in staff and staff development.
- \*Overcome the ecological illiteracy across public service providers by a programme of staff development, starting at the most senior levels of officers and politicians.
- \* Take the opportunity of the EU's CAP review to embed environmental and eco-system practices in agriculture, and to provide carbon grants to improve the carbon sink value of the soil.
- \* De-intensify farming/food production and its dependence chemical fertilisers in the interest of food quality and human wellbeing, animal welfare and land and water quality.
- \*Revise the Welsh Fisheries Strategy to ensure that all commercial fisheries will be exploited only when population levels are at or greater than those required to achieve Maximum Sustainable Yield and to adopt Marine Stewardship Council Principles and Criteria as the guiding principles for fisheries management.

**ii) Ensuring a Strong, Healthy and Just Society:** meeting the diverse needs of all people in existing and future communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunity for all.

Inequality has been increasing for decades, and continues to accelerate. Social cohesion has fractured due to increasing economic inequality, but also due to a reduction in respect and empathy in the design and delivery of public policy and services. Notions such as the 'undeserving poor' have become adopted and negative stereotypes abound, partly because of the intense competition for limited resources but also because communities and cultures have become more polarised and detached from each other, hence the view that "the 1%" are detached from the rest of society. Population growth and the possibility of population movements across and within continents as a result of global social, economic and environmental change will test the resilience and commitment of host communities to social justice and equal opportunities.

This 'fracturing' of society has social and economic costs, reduces opportunities, and ignores the latent talent within the community. Scandinavia has a very different post-war social consensus from that of the UK and links a just society to economic success. This has been characterised as:

*"a social contract and moral logic which would startle most UK Conservatives, in which the state is viewed more as a friend than a foe, and where the social compact is based on relations between autonomous and equal individuals. **A central purpose of policy is to invest in human capital** and maximise individual autonomy, that is the key to the vitality of the country's economy"* (Lars Tragardh, member of the Swedish Prime Minister's Commission on the 'Future of Sweden').

This Swedish 'model' seems to recognise that increasing economic inequality and social discontent is not conducive to achieving the social cohesion and social justice we need to manage the pending dramatic changes which climate change and resource depletion will initiate. Increasingly we are seeing massive pressure being placed on adult social care and children's services (budget and staff) due to budgets reduction and increasing demand, with a 'knock on' effect on the budgets of other services. A transformation in public service provision: priorities, resource allocation, and delivery mechanisms is inevitable, as some local authorities are already aware: Barnet Council predicts the erosion of all services other than adult social care and children's services and Kent County Council has made its Chief Executive redundant as a cost reduction measure.

The actions to avoid long problems and costs include:

- \*Establish a Fairness Commissions across Wales to review and amend the growing inequalities in public sector pay and to stop and reverse the increasing trend in the number of town hall staff earning more than £100K and restricting maximum pay to £150K (see 'The New Few' by F

Mount, 'Spirit Level' by Wilkinson and Pickett, The Taxpayers Alliance report on Executive Pay, and [www.equalitytrust.org.uk](http://www.equalitytrust.org.uk)).

\*Local government reorganisation to reduce overheads and duplication, (e.g. 3 west London Boroughs have joint service planning and delivery and have reduced staffing levels and overheads).

\*Speed up and improve the process of community engagement in service design and delivery, drawing on local 'social capital' and community and voluntary organisations.

- ii) **Achieving a Sustainable Economy:** building a strong stable and sustainable economy which provides prosperity and opportunities for all, and in which environmental and social costs fall on those who impose them (polluter pays), and efficient resource use is incentivised.

We have to adopt sustainable production and consumption, that means de-carbonise and become not only resource efficient but use fewer resources, what Prof Wolfe describes as adopting a 'war economy: reuse and re-cycle'. Growth defined as GDP or GVA, has no relevance to a discussion about a sustainable future because growth is in short supply and economic growth fails to take it account the cost of externalities. A sensible perspective would be to focus on low carbon/low resource based prosperity which would require capital, innovation and skills (see T. Jackson 'Prosperity Without Growth').

A long term view would be a concern for our increasing dependence on imported fossil fuels, and the predicted of a doubling of oil prices by 2020, ( Ref :IMF working paper, 'The Future of Oil: Geology v Technology, May 2012), which is likely to cause significant difficulties in the longer term, including for public service provision and procurement . The actions to reduce dependence could include:

- Require Carbon Management Plans to be drawn up and acted upon to reduce energy use and reduce costs (eg video and telephone conferencing, reduce mileage payments, procure green energy, invest in renewables, etc)
- Require the Local Development Plans of the Local Planning Authorities to: refuse all new development not on public transport routes and not close to public services, make sustainable development the priority 'material consideration' when determining planning applications, and adopt the 'Merton Rule' so that all development has to incorporate the micro generation of renewable energy.
- Ensure that a Marine Plan meeting the provisions of the Marine & Coastal Access Act 2009 is prepared and maintained, which looks forward into the long term, is sufficiently detailed to guide and direct decision makers and sea users towards sustainable use of the sea, and which provides for adequate protection of the ecosystem and fish stocks to meet the UK Marine Policy Statement target of "clean, healthy, safe, productive and biologically diverse oceans and seas".

- iii) **Promoting Good Governance:** Actively promoting effective, participative systems of governance in all levels of society – engaging people's creativity, energy and diversity.

In addition to the trends we identify below (in para 9.2), which express concern about increasing centralisation, we wish to point out that a recent WG study of 'policy options for stimulating and supporting community action for climate change' identified: a gap in the language used by policy makers and communities, a lack of evidence on what is effective, and a lack of resources. Yet climate change is a relatively manageable issue compared to sustainable development which aims to transform society. This suggests that WG and other public bodies have failed, to date, to develop effective engagement mechanisms. Best practice includes:

- Oldham District Councils mutual contracts (published agreements) between residents and service providers.
- Barnsley Council's commitment to regular engagement with the public on environmental policy and practice.
- Greater use of the internet to engage with communities ( [www.TalkAboutLocal.org.uk](http://www.TalkAboutLocal.org.uk)) and the social media (the Leadership Centre for Local Government has produced a guide

and web site for councillors: [www.socialmedia.21st.cc](http://www.socialmedia.21st.cc)). More examples are available in the TENP 'Directory of Sustainable Development Policy and Practice', available in both English and Welsh from our web site.

- iv) Using Sound Science Responsibly:** Ensuring policy is developed and implemented on the basis of strong scientific evidence, whilst taking into account scientific uncertainty (through the precautionary principle) as well as public attitudes and values.

There is a distinct impression gained from this consultation paper that WG policy makers have had to consider the 'political limits' to what is considered a tolerable amount of 'policy change'. In other words: how far can the sustainability 'agenda' be pushed? The evidence of climate change, inequality, bio-diversity loss, resource depletion and the current age of austerity, indicates that the conventional approach to development and growth is failing to deliver the 'goods'. Growth, as currently practiced, is not good.

The 'growth dilemma', i.e. that 'growth' has to be promised or offered to the public but that unsustainable growth is simply not achievable (even in the short/medium term) without disastrous consequences, means that symbolism and rhetoric are important if only to declare an appreciation of the issues. But the practice of changing from a conventional and unsustainable growth agenda to a sustainable agenda is fraught with difficulties and almost impossible for Governments to consider. The result, in this consultation paper, is that sustainability has been re-defined and its scope narrowed, and SD as a COP has been based on assumptions and beliefs, which are not supported by evidence. Furthermore: recommended best practice is based on limited criteria, action is left to a small selection of high level decisions, and it is within the discretion of public bodies what they do or do not consider an SD 'factor'! Compliance will be self assessed and post-hoc.

TENP Trustees recognise that there are constraints facing WG policy makers. However we would appreciate a clear statement as to what they are and the limits to policy change and action. Our view is that to argue that belief based policy such as thinking long term, etc, is a critical pre-condition for sustainable development simply undermines the credibility of both policy and policy makers. The assumption that high level decisions alone can change organisational behaviour needs to be backed by evidence, particularly as high level decisions within WG in support of SD have had limited impact since 1999!

We recognise that SD can legitimately be viewed from a governance and process perspective: *"SD can be described as a collective social endeavour in which a multitude of stakeholders must be engaged and galvanised"* (WAG 2007). However the view that *"there is no real consensus as to its implications for policy prescription"* (Thomas and Rhisiart, 2004) still holds true. In our view WG needs to move from ambiguity and a lack of clarity, which may be politically functional and desirable in the interest of engagement and discussion, to a new consensus which is based on clarity of understanding, evidence and interpretation which is critical for consistent and practical action.

The impression we get from this consultation paper is that WG is inviting public bodies to adopt the rhetoric of SD but offers too little in how they might convert this rhetoric into practice. The result will be variable and inconsistent application and outcomes.

This concern about the lack of a clear understanding and lack of evidence of SD within WG is reinforced by the examples of SD that you refer to as 'good practice'. Your evaluation is partial and limited by your failure to develop clear and comprehensive criteria based on SD principles. For example, in the case of the TV studios design to BREEAM standards and built on a brown-field site with the prospect of providing thousands of jobs, the answer to the question:

"Is this an example of sustainable development?"...is "NO!"

The reason is that such a physical development does not, of itself, 'deliver' social justice, equality, well being and reduce CO<sub>2</sub> emissions. A building can be 'low CO<sub>2</sub>' in construction but a TV production complex, no doubt, uses a huge amount of energy. This sort of 'enlightened 'green' development' would not be out of place in a mainstream regeneration strategy circa 2000..

In assessing whether a development is truly sustainable a number of questions have to be asked:

- does it help reduce national CO<sub>2</sub> emissions?],



- how is the energy it uses being produced (Renewable? Fossil fuel? On site? off site?),
- how is the waste managed?,
- who gets the jobs and how ?
- does it increase traffic (fossil fuel use) ?
- does it lead to gentrification ( increasing rent levels and house prices and pushing the existing households out of the area?), etc

The history of urban planning, economic development and community regeneration, is littered with promises of equality and community benefits attached to major capital projects. The hope is that these outcomes will be achieved but the steps are not taken to make sure that they do!

If WG genuinely feels that examples such as this one reflect sustainable development then there is a fundamental misunderstanding within WG of what constitutes SD. Furthermore it raises important question about how rigorous compliance will be evaluated and enforced.

To put this simply, unless the SD principles are clearly understood and applied **in practice** we are simply 'talking the talk'....moving the deckchairs on the Titanic did not affect the steering!!

### ***What another duty?***

7.1 First of all there is already a duty on Local Planning Authorities to encourage SD (section 39, 2004 Planning Act). We wonder if you are aware of this and if you have evaluated the implementation of this duty? This would provide you with some useful lessons, not least about the disposition of public bodies and staff to a SD duty. The Pembroke consultation event provided useful insights into how this power has been received:

a) One participant explained that Local Development Plans have to undergo a sustainability appraisal. However, we are aware that these appraisals are relatively superficial in that they simply require objectives to be considered and boxes ticked. TENP Trustees know of one LDP appraisal where economic objectives were withdrawn as they contradicted with other objectives! In other words resolution was avoided. Essentially planning staff are under no duty to conduct a rigorous evaluation in order to explain how they have resolved competing or contradictory objectives. Adopting clear SD principles, as we have advocated, would help with appraisal and decision making.

b) Another participant insisted that in the case of planning decisions it would be too onerous, costly, and time consuming to carry out a sustainability appraisal of the form used for LDPs. We agree. In our view if the SD principles were available to the officer they could be taken into account in arriving at a recommendation. Over time, and with staff development, professional staff would develop the ability to embed SD principles in their decision making. Furthermore, this would provide fertile ground for the Single Body to provide support and advice on those policies and decisions having a real impact on the future sustainability of Wales.

c) A third participant felt that applying SD objectives to land use planning decisions would threaten economic objectives, and that the decision of the planning authority would be challenged by the applicant. The fact is that there are already other objectives competing with economic objectives and the resolution of them often favours the economic (some years ago the RTPI announced that planning officers were frustrated by their inability to ensure that developers took their environmental responsibilities seriously (RTPI press release 2007). Of course applicants would appeal. The point that this issue raises is whether WG and Local Planning Authorities (along with the Planning Inspectorate) are prepared to develop a robust policy, based on sustainability principles, which will be supported at both National and Local level in the event of an appeal. Simply accepting that challenges can never be successfully rebuffed ignores the fact that planning decisions are a matter of policy and the outcome of negotiations. The 'Merton Rule' is an example of a Local Planning Authority using planning policy to encourage renewable energy generation. The applicant accepts this policy as a condition of locating development in Merton Borough. The reality is that if Wales wants a sustainable future then policy has to express sustainable development principles, as a priority, and the prospect of unsustainable development being refused has to be accepted. This would have the potential of making Wales distinctive and attractive, setting high quality standards. To achieve this sustainable development principles would have to be included in the 'material considerations' that Planning decisions have to take into account. However this, alone, would not be sufficient to ensure SD outcomes, for

*"The issue is not whether sustainable development principles have been defined and are present, but rather how much weight they are given in the decision making arena, and that stems from Government policy.*

If WAG wishes to make sustainable development principles the first and foremost consideration in any decision, it would need to say so in a policy document and effectively relegate other considerations to secondary importance; it would not remove those other considerations, of course, merely guide the decision maker to give appropriate weight to some matters.

The nature of our discretionary process is that there will always be exceptions to the rule and for caveats to be present which may mean sustainable development principles appear to be over-ridden by some judgements.

At the present time, we have an endless list of policy considerations for the decision maker to have regard to. These considerations frequently cancel each other out - pro economic growth/environmental protection eg - even beneath an overarching theme of sustainable development.

I don't think this type of system can go on for much longer if key issues facing the planet and land and land use (including economic growth agendas) are to be addressed in a meaningful way".

(View of a Professor of Land Use Planning and UK Government Adviser, 2009 )

7.2 You are asking public bodies to think and take into account social, economic and environmental impacts. We would be extremely surprised if they don't already do this but the result has been a continuation of unsustainable development! How do you explain this and how does this support your proposed approach to SD?

7.3 You are reluctant to specify outcomes which is astonishing as there are already commitments to: CO2 reduction, EU bio-diversity strategies with targets, equal opportunities legislation, OWOP, etc . You even mention: "maximising well-being within environmental limits", without indicating how they are measured. If you want public bodies to think but are reluctant to specify desirable outcomes, then what reason will they have to think? On this basis an SD Bill based on your current approach is 'born to fail!' TENP Trustees are convinced that without a clear indication of what you want public bodies to achieve, and how, then SD will be high on symbolism and rhetoric and low on achievement.

7.4 We would welcome evidence that confirms that simply placing a duty on public bodies to think in a particular way and change their behaviour will have an effect. Introducing change and overcoming 'inertia' and the 'status quo' and at the same time attempting to introduce a new 'policy agenda' will, in our view, require clarity of policy direction and content, persuasion and encouragement.

7.5 We find it odd that you freely admit to being reluctant to specify outcomes, but in this sub-section there is the phrase:

*" we want to embed the thinking and want transparency in decision-making so that we start to build 'better places'"*

So one outcome is 'better places', but what does that mean?

Earlier in the document, in the section 'The Heart of Everything We Do' , it says

*"we currently use clear principles to take decisions which will deliver the outcomes we want to see"*

and two outcomes are mentioned: prevent social hardship and use energy more efficiently (but no measurable outcomes provided !?).

**SO why are you so reluctant to specify outcomes yet refer to a number of general outcomes in this document?**

7.6 This suggest that WG are either genuinely unsure of just how prescriptive they need to be to effect change and are seeking reassurance through the consultation, or are genuinely reluctant to impose any specific outcome for some reason.

7.7 A related but key point is that **SD is not just about desirable long-term outcomes, it is about the 'day-to-day' operational decisions upon which these outcomes hinge**, including the allocation and use of resources. To focus on outcomes ignores the possibility of achieving them in an unsustainable way. A strong economy could be achieved by rising unemployment and rising inequality (jobless growth), and/or be based on high carbon emitting fossil fuels. Promoting and increasing the generation of renewable energy should not be done at the cost of Social Justice and Equality (e.g. regressive Feed in Tariffs). Decisions should be transparent otherwise you risk

undermining social cohesion and community engagement and increase the difficulty of implementing those decisions

7.8 Simply thinking about outcomes without thinking about the role and implications of operational decisions misses one of the key considerations of sustainable development, which is production and consumption which is less resource intensive. This is not the same as resource efficiency, although both should be objectives. This has implications for how public services operate and public procurement policy.

7.9 We would strongly suggest that you place within the duty a number of requirements which will help to embed SD in the service delivery of public bodies. They could include:

- Adopting specific policy instruments e.g., the Merton rule that requires all development to include and specific and minimum level of renewable energy generation on site.
- Instigating local 'Fairness Commissions' to re-balance public sector pay to achieve greater economic equality.
- Ensuring that existing plans, such as Local Development Plans, Carbon Management plans adopt SD principles.
- Require SD to be the overriding 'material consideration' when determining planning applications.
- Reviewing procurement policy.
- Adopting a commitment to telephone and video-conferencing to save energy and money.
- Require all local authority committee reports to include the SD Implications of the recommendations, alongside financial and equality implications.

7.10 We note with some concern that you don't wish to place too great a 'burden' on public bodies (para 75). This seems to reflect a view that there will be resistance to SD rather than a welcome. You may wish to consider the possibility that this burden would be a sound investment if it helped WG and public bodies to avoid the long term costs (social, economic and environmental) which would be the price of complacency and inaction.

7.11 We would argue that if combined with the freedom to be innovative (localism) and greater engagement with the community and voluntary sectors, this duty would be seen as an opportunity not a threat. No doubt some bodies and services would welcome this change of emphasis others may well be resistant. It is for WG to make a long term commitment to providing support and encouragement, and, if necessary, to 'bend main programmes' to redirect resources.

### **Not about ticking boxes or bureaucracy:**

8.1 This section provides the basis of the proposed Bill, clarifying the rationale and logic.

8.2 TENP Trustees feel that the assumption that *higher level decisions* (however defined) are the most significant ignores the vast range of decisions taken at the local level as part of the implementation of policy (often where there is a great deal of officer discretion). Good intention at the highest level does not guarantee delivery on the ground. You admit this by recognising that high level decisions only 'guide the way they work'. TENP Trustees feel that this is inadequate to achieve the level of change that is necessary.

8.3 You suggest a relationship between '*possible SD factors*' based on SD behaviours (the 'organisational architecture' which we have already commented are not confined to SD) and 'other possible factors' based on SD objectives which incorporate desired outcomes, (which you don't specify!) . You then assert that high level decisions that "are consistent with a set of SD factors will promote the sort of SD outcomes we want to see", (in what way consistent?). This is very unsure, confusing and confused thinking, and not very convincing..

8.4 To be clear, you have: possible SD factors, behaviours, and other possible factors based on objectives which incorporate outcomes. You then claim that high level decisions are amenable to and can deliver this, claimed, logical relationship.

8.5 In simple language you are saying that there are two types of 'factors' (those relate to organisational thinking and practices and those based on objectives linked to outcomes) and that together they will 'deliver' SD and that high level decisions are the most appropriate level to ensure that this happens. TENP Trustees would very much like examples of where this symbiotic relationship

between these two categories of factors has been applied to high level decisions and the intended outcome achieved. What guarantees are there that this will happen?

8.6 You seem to be assuming a technocratic, 'value free', environment where there is a mutually supportive relationship between thinking and practice on the one hand, and desired objectives and outcomes on the other. You are claiming, or assuming, that high level decisions that affect organisational behaviour are effective in producing change. In doing so you are reducing policy making and implementation to a mechanical process. This is as far from reality as it is possible to get and devoid of context: political, financial, resources, etc. The reality is that introducing and implementing a new policy agenda is the result of bargaining and negotiation.

8.7 Experience shows us that change tends to be driven by either external threats or policy entrepreneurs / 'change agents' within organisations who succeed in promoting and embedding a new policy agenda within an organisation, or quite probably a combination of both. However to bring about change from within an organisation requires a willingness to dispense with outmoded value and assumptions. Sadly this is very difficult to achieve, as the slow acceptance of SD across Wales shows. Our view is that public bodies have not yet accepted SD and the proposal within this consultation: the duty, thinking, behaviour, objectives, and compliance, will be insufficient to effect meaningful change.

8.8 You then add that annual reporting is sufficient to ensure compliance. Two concerns arise:

- i) Annual reporting could degenerate into an exercise in post-hoc rationalisation. Our view is that SD can and should be a consideration in all decisions (particularly in the case of Local Authority Committee papers and reports in which recommendations are made which the public have a right to see 5 days before the Committees meet).
- ii) What is being "complied with?", after all if the duty is only to think and change behaviour with no reference to what impact these two duties ought to have then it is difficult to imagine how the adherence to the duty can be judged. Furthermore how would WG respond to a perceived failure to respond?

8.9 Our impression is that the combination of the proposed duties and the compliance regime will have little impact on policy and decision- making as these requirements are so easy to satisfy and require no specified actions or outcomes.

8.10 There is clearly a concern not to add to the 'bureaucratic burden' (avoid tick boxes) but this begs the question: what if more burden in the short –term makes savings and helps achieve targets in the long –term? Would not such long-term thinking conform to your understanding of SD as an investment for the future?!

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8.11 Your proposal for annual reporting would mean that we would get to know about the decisions that have been taken, but up to a year, or two, **after** they have been made, i.e., post-hoc rationalisation will become a key skill!

8.12 What is so frustrating about this section is that it ignores what happens at the moment which offers an easy way of embedding SD thinking. Every local authority report destined for Committee has to give a justification for the recommendation(s) it makes. Furthermore it is not uncommon (in some cases a requirement) for the author to include at the end of the report, under 'Other Considerations':

- i) Financial Implications, and
- ii) Equalities Implications.

8.13 A report can, and should, also refer to the statutory duties (the powers) that the decision or recommendations needs to use for the recommendation to be implemented (e.g. the Local Authority is required by law to, or, has a duty to...) .

8.14 It would be very easy for WG to insist that all Local Authorities add to their Committee Report 'structure and content' a section entitled:

***Sustainable Development Implications*** (of the recommendation[s]). This is not a 'tick box', or an appraisal, but a short section explaining what the implications of the recommended decision would be for achieving 'desired' SD objectives. Much of this would already be in the body of the report as the

author has to explain how s/he arrives at the recommended decision. Of course this would require investment in staff development and induction for County Councillors. In this way an annual report would be easier to write (the data would be at hand) and the public would simply have to read a report (which they are entitled to see 5 days) before a Committee meets. .

### ***Leadership and Culture Change:***

9.1 We agree that cultural change can be slow and believe that more rapid change will only take place if SD is championed by the most senior politicians and civil servants at the Central, Regional and Local levels, and with meaningful community engagement. However a light touch approach to scrutiny and support will not be enough. We feel that a major 'management of change' initiative is necessary across the public sector with support from the proposed Single Body, the voluntary and community sector, HE and the private sector. In other words public bodies need to be open to new ways of working and examples of best practice.

9.2 There is no doubt that the last 3 decades we have witnessed a strong trend to greater centralisation of public policy making and financial control and that ordinary people's own experience tells them that power has become more remote and therefore they can have little influence. The Cabinet system in local government means that the opinions of those councillors who are not members of the Cabinet are easily sidelined. The Power Commission (set up by the Joseph Rowntree Foundation) reported these trends in 2006 and identified both the 'democratic deficit' and 'consultation fatigue' (consultations which fail to inspire confidence in the public and are no substitute for real decision making power) and how frustrated and dissatisfied people felt. TENP Trustees can endorse these findings and can contrast the passion, concern and innovative activity 'on the ground' within and across communities (and by some staff in some public bodies) and the relatively cautious and constrained approach to SD offered in this consultation paper. The very nature of the consultation document and process inhibits open dialogue by setting questions that reflect the limits that WG wishes to set to discussions with little prospect of detailed written comments (such as this one) receiving a detailed, or any, response!.

9.3 A relatively autonomous devolved administration such as WG should be seeking to reverse these trends in the interests of community engagement and social cohesion both of which are essential to achieving a sustainable future. Sadly we have to observe that 'good governance', whilst a UKSDC principle of SD, does not appear in this consultation paper!

9.4 We would argue that WG should promote 'localism' (giving public bodies the freedom to implement) on the grounds that diversity of approach promotes innovation. However this freedom has to be expressed in the context of a clear duty.

9.5 We also feel that community engagement is under-developed, particularly the failure of public bodies to use the internet to engage with communities (see [www.TalkAboutLocal.org.uk](http://www.TalkAboutLocal.org.uk)) and the social media (the Leadership Centre for Local Government has produced a guide and web site for councillors: [www.socialmedia.21st.cc](http://www.socialmedia.21st.cc))

### **Supporting the Change:**

10.1 An independent 'critical friend' would appear to be a sensible way forward. Promotion and staff development are very important components of change. The key questions are:

- Why would a public body have to listen to a critical friend?", and,
- Why would a challenge have to be taken seriously?

It would be useful to know how effective the critical friend' role of the voluntary sector has been in influencing public service delivery over the last 10 years. In other words is this proposal evidence based?

10.2 Our feeling is that the proposed single body should be more of a resource that can influence directly rather than simply make recommendations, review and report. From this perspective the SIB would be a provider of short courses, research and evaluation and consultancy services for both WG and public bodies (both politicians and officers) and the voluntary and community sector. This would reflect the reality of public policy making and delivery being a cross-sectoral endeavour.

10.3 We have a concern that para 70 seems to assume that the Single Body will be the main, perhaps only, means of establishing SD as a COP. We would like to know what internal actions public bodies will be expected to carry out to embed SD, for example, will a proportion of staff

development budgets be ring-fenced for SD 'training', and will a 'management of change programme' be instigated for both professional staff and politicians? Clearly the details of its role will depend on the outcome of this consultation.

10.4 The document states that:

*" we are particularly interested in identifying systems and duties which drive unsustainable decisions within organisations and in any unintended consequences which may result from these proposals" .*

This is both a huge relief and a huge worry, i.e. a relief that there is a recognition that good intentions can be distorted (ie a drive for sustainability can be pushed 'off track'), but a worry that the explanation can be placed at 'systems and duties'. It is astonishing that WG don't seem to understand 'the politics of policy', but believe that outcomes can be controlled by 'mere' systems and duties.

Process and structures can be manipulated (they are one component of the context in which decisions are made, often officers 'make decisions', the politicians 'take decisions'). More importantly:

*"In order to understand strategic choices we also need to know what are the interests , motives and resources of individual implementers", (Lester and Goggin, 1998).*

10.5 Systems are just one resource than can be manipulated. What WG should recognise in this consultation (and we are sure you must do in private) is that there are some purposes of policy that have a higher priority than others e.g. growth, job creation. The reality is that SD is not on the carousel (it's hard to get on one that is moving, but you cling on tight when you are on it so has not to get thrown off!), it is not sufficient priority and the principles of SD threaten 'business as usual' and the status quo. WG seem reluctant to grasp this nettle and so 'reduce' SD to the 'comfortable' debate about organisational issues and adopts a 'light touch' on matters of transparency and scrutiny. This may be all that you feel able to do, that you have low expectations of the amount of change that you can impose on public bodies, or, politically, you may feel that a more interventionist approach will be counterproductive and result in fierce resistance. Either way this Bill, in our view, is not going embed SD in public bodies nor achieve Sustainable Future that you seek to achieve. It is more likely to expose the limitations of WG as a driving force for change! The reality is that to implement SD policy there needs to be a clear statement of principles, a clear set of outcomes and targets, and a 'delivery' mechanism (structures, resources, skills, etc) that is closely monitored to see that distortion or hi-jacking during implementation does not take place. This would mean far greater scrutiny and transparency than is being suggested. Anyone with experience of attempting to deliver equal opportunity policy, for example, would be aware of this.

### Section 3: Additional Comments

11.1 In **Section 2, para 11** you provide a definition of Sustainable Development. There are a couple of problems with it:

- a) It fails to adequately accommodate the resource issues with which we are faced and the implications this will have for how we will distribute, wellbeing, social justice and opportunity. It is difficult to see how all people can expect to have well being enhanced!
- b) Fails to evoke the dramatic changes that will be needed to save let alone enhance our natural environment within self imposed resource limits.
- c) Promoting social justice and equal opportunity is surprising 'hands off' for a Government and public bodies who have a duty to allocate resources, provide opportunities and meet needs.
- d) SD is not a process, it is a series of actions/activities. How the decisions are made to arrive at these actions, the process, may be: logical or irrational, ordered or chaotic, transparent or secretive. We may adopt rational planning, 'muddle through', or engage in crisis management!. Far more important than a definition are the SD principles that underpin these actions. However we would strongly suggest that a far better definition would be the one adopted by the SD Forum for Wales in 2003:

*" Sustainable Development provides a framework for redefining progress and directing our economies to enable all people to meet their basic needs and improve their quality of life while ensuring that the natural systems, resources and diversity upon which we depend are maintained and enhanced for our benefit and that of future generations".*

11.2 In **Section 2, paras 12 and 13**, the claim is made that the WG approach is consistent with the 5 UK framework principles of sustainable development. Our view is that this is not the case and that the consultation paper distorts and simplifies the UKSDC principles (see our comments above in section 6). Firstly, Good Governance and Evidence Based Decision Making, 2 of the 5 UKSDC principles, are not included. This is astonishing given that this whole document is about the role of government! Secondly, these two paras highlight the shortcomings of the current debate by using the prefix 'sustainable' at every opportunity with the effect that it is unclear what it means. It is possible and desirable to avoid using the word sustainable as much as possible. You present those long term outcomes which will lead to a sustainable society. We ask you to make clear what sort of Economy and Society you are trying to achieve. Simply using the word 'sustainable' is not informative.

11.3 Similarly what is an attractive society/community? What level of economic inequality would such a society maintain?

11.4 It is clear that WG has chosen a 'wellbeing' focus (which could in the definition adopted be replaced with the word 'conditions'), but it is not clear why. Perhaps familiarity is the reason (para 16), or it is a convenient for denoting a distinctive national approach to SD?

11.5 Wellbeing is a very subjective and one wonders if WG and the public bodies are simply comfortable with a 'high level' goal which is unachievable and for which they cannot be held accountable. What evidence base would be necessary to prove that this outcome had been achieved? Evidence suggests that wellbeing diminishes with wealth, so what re-distributional policies would be needed to achieve this outcome? Our fear is that WG is falling into the trap of 'promising too much and delivering too little'. Furthermore there is no attempt to explain how this approach will deal with the tensions between wellbeing, growth, equality, resource limits/depletion and governance. Our view is that wellbeing is overcomplicating the sustainability debate and distracting us from the key principles and actions. You may wish to reflect that the UKSDC 5 principles have incorporated well being within a strong healthy and just society  
“

11.6 A reference is made (para 47) to enabling rather than being burdensome. Not only does this sound very 'hands off' it also contradicts the very thinking you are advocating namely that a long-term view should be adopted (this para changes the language to 'long term commitment' which is not the same as a long-term view!). Surely the investment in establishing and embedding a sustainable development duty and practices now, while requiring a commitment of time and resources, which may be interpreted as a burden, will pay dividends in the future?

11.7 In Section 4 you describe how the approach to SD has matured although with patchy adoption. However you then conclude that continuous improvement is linked to SD as a process yet no evidence is provided. So much for evidence based decision making!

11.8 The assertion in para (63), *“We have seen in the previous section that there is evidence that having SD as COP results in different, better policy outcomes”*, is not convincing as the evidence is weak or completely lacking. It is assumed that better outcomes (if that is what they are!) must be due to SD as COP but other factors and influences are not considered!

11.9 What we identify in this document is a simplification of the world so that it is amenable to WG assumptions about 'suitable' behaviour. This is a classic case of problem definition (behaviour) constraining the policy response. The victim is any clear understanding of SD principles.

11.10 The consideration of the implications of this duty for public contracts is important Our response to your hesitancy is that we expect contractors to adhere to Health and Safety, Equal Opportunity and Minimum Wage legislation, so what is different about an Sustainable Development duty? We are very concerned that this hesitancy reflects a view within WG that sustainable development is a second order priority when you claim it is intended to be overarching. What public bodies have to develop is the ability to justify and embed sustainable development principles in public contracts across all sectors and partners. We would like to know how WG intend to develop this ability among public servants?

11.14 There is no mention of the Voluntary sector, why not? The voluntary sector is critical in the delivery of public services, often contracted by public bodies.

## Section 4: Answers to Consultations Questions 1-35.:

**Q1:** The questions ignores the reality that some long-term, joined up (coordinated) decisions are already taken. The point is that some decision face barriers such as: uncertainty, lack of information, lack of leadership, poor communication, a silo mentality, and low priority, while others decisions are taken on the basis that the outcome or purpose is a priority and an assumed 'good', e.g. job creation, inward investment, keeping the Council Tax low. The reality is that there is not 'a level playing field' in the sense that some decisions require more justification and information than others. Some decisions galvanise people to collaborate, others do not. A long term decision has to be 'made' ie constructed, which takes time and the bringing together of skills, expertise, information and political commitment. Once the case has been made then the decision can be taken.

**Q2:** The key actions are a recognition that these barriers exist. This consultation paper ignores the 'politics of policy' and assumes that 'tinkering with systems' will change things, it won't! In fact this paper adds to the symbolic value of SD in Wales, i.e. is yet another reflection of WG's commitment, yet fails to confront the urgent need for dramatic change in priorities and values of decision makers and takers.

**Q3** The evidence of progress is patchy, and by your own admission there is not a common and clear understanding of what SD is. WG has persisted with ambiguity and symbolism but has failed to make the next big step which is to achieve a consensus around a common understanding and set of principles. We have advocated, above, that adopting the UKSDC principles in full would be a positive step forward.

Your approach to SD as a COP is founded on belief rather than evidence. The notion that systems and high level decision (which may or may not embrace SD factors) will achieve SD outcomes is simply wishful thinking and ignores the politics of policy and the potential for policy failure. To put this simply, the purpose of policy (the anticipated or claimed outcomes) determines whether a policy is successfully implemented or not. At the moment the lack of clarity and consensus around SD means that we are a long way from embedding SD into organisations. This is not to ignore the possibility that some decisions will make a contribution to achieving SD but it is just as likely that SD will be hi-jacked and used as a justification for unsustainable decisions/outcomes.

A simple example of this failure is the Planning Act 2004. Section 39 places a duty on Local Planning Authorities to encourage sustainable development. This is a high level decision and public policy yet SD is not a material consideration that has to be taken into account when LPAs determine planning applications. In other words after 8 years no progress has been made! Further evidence of the failure of the Land Use Planning function to understand and adopt SD is glaringly obvious in the recent WG consultation on a 'Strategic Monitoring Framework for the Planning' which exposes unrealistic assumptions about what planning can contribute.

**Q4:** No. Notwithstanding the shortcoming of your approach the idea that high level decisions by their very nature **must affect** all other decisions is a belief or assumption but not based on evidence. There are many duties that are not fulfilled due to a range of factors: ambiguous and unclear policy intentions, inadequate resources, lack of skills and commitment by staff, and, the lack of readiness within public bodies to bargain and negotiate during the implementation phase to make sure the necessary actions take place and have the intended effect. Low level decisions based on the discretion of individuals can either support or undermine a duty. Duties can be well intentioned but the reality is that they have to survive a raft of other priorities and pressures during implementation. In other words public servants have to be confident that the policy is adequately resourced, that its implications will be supported by their superiors (professional and political), and at that it takes priority over all competing, and possibly contradictory, policies. There is no evidence from our experience that public bodies have taken anything other than symbolic and tentative steps towards embracing and committing themselves to SD.

**Q5** This is an odd question. If you think of this duty as having the same significance, priority and importance as Equal Opportunities (which is supported by legislation) then it is difficult to imagine any decision that should not be subject to it. Furthermore you are proposing to give public bodies the discretion to decide how they comply with the duty, so there is no risk, they can choose when and how to comply to the duty..



**Q6;** As we have argued above we feel that sustainable development should be embedded in all decisions taken by public bodies. SD principles need to be understood and 'embraced' at all levels of an organisation. We have also described, above, how decisions can be required to consider sustainable development by simply making a minor addition to the contents of local authority committee reports. This would also allow the public to have a preview of the decision rather than wait a year for an annual report!

**Q7,** Your approach to SD is focussed on organisation thinking and behaviour (SD factors). Policy decisions are implemented through the internal operations of the organisation. The way in which an organisation operates will determine to what extent SD is taken seriously. It is quite possible for a contentious or difficult policy to be impeded by operational considerations. Given this reality it is difficult to imagine how you could exclude internal operations. For some organisations that are already SD 'friendly' this will not be a dramatic and onerous requirement. Other organisations may require support and encouragement.

**Q8** Of course, budgets reflect priorities. Without resource allocation reflecting the activities, supporting policies and actions which will 'deliver' SD the whole exercise (this duty) is pointless. Options available to WG are to require public bodies to declare how this duty has led to budget changes, and /or to 'claw back' a proportion of mainstream budgets and make this available on the condition that SD related activities are delivered. We assume that WG is aware that some services which 'deliver' key SD outcomes are under-resourced for the tasks they are expected to perform and outcomes they are expected to deliver. Public bodies will need to review their budgets and business plans and assess how their priorities and resource allocation needs to change.

**Q9** The '**Think-Behave-Act**' relationship which underpins this duty assumes that one logically leads to the other and that action will lead to SD outcomes. Unfortunately this ignores the possibility of post-hoc rationalisation, and the possibility that well intended behaviour can lead to unintended outcomes. It also ignores the reality that action by a public body is frequently 'distorted' or compromised due to significant and more powerful factors, eg profit motive, or job creation, when market forces come into play. In which case 'acting' is not enough without additional 'bargaining counters' (e.g. regulations, and fiscal inducements such as subsidies). Delivering SD is difficult even when the behaviours are the correct ones because it requires a transformation of our values and priorities.

Sadly none of the behaviours (SD factors) you list in para 90 is 'new' to public service, eg cost-effectiveness working collaboratively/in partnership, early intervention and engagement. In fact those 4 are typical of a value -for- money 'agenda'. As we explained above (para 2 iii)) these behaviours are not related to specific SD issues, such as resource and bio-diversity depletion, and therefore while valid as general ways of thinking are context and issue free'. In other words there is no way that adopting these behaviours, of themselves, will result in SD outcomes..

Furthermore the behaviour of 'integration' singularly fails to confront, or suggest how, the tensions between the economic, social and environmental impacts should be resolved. The first error is that having evidence is not, on its own, going to lead to an SD sensitive decision and outcome. Secondly, who decides what impacts are desirable and undesirable? Thirdly, can we be sure what the long-term impacts are likely to be? Currently we are seeing numerous decisions across Wales that put economic impacts as the priority. In other words any decision that supports greater efficiencies and cost savings and with them greater competitiveness will tend to be supported, even though these decisions might have adverse social and environmental impacts. Put another way, the economic imperative dominates. Social policies (such as equal opportunity) get distorted during implementation in the interest of economic benefits (eg, of the unemployed, the highest skilled or cheapest to retrain or place in jobs get priority in order to maximise value for money). Environmental impacts are either ignored, or not recognised or are not highly valued when compared to economic benefits. Simply requiring public bodies to adopt these behaviours gives not guarantee that SD will be the outcome.

**Q10** As you will deduce from the answer we have given to Q9, we are not persuaded that the behaviours are the determining factors in 'delivering' SD. There is no doubt that some or all of them could help lead to better decisions, depending on the issue and the urgency, but there could also be tensions between them, eg cost effectiveness and engagement. A good decision making process is no guarantee of a good decision nor of an SD outcome.

The difficulty we have with your approach is that it is, understandably, limited to working within set of assumptions: business as usual. You seem to assume that the organisational behaviours you have selected are fertile ground for a growing awareness and understanding of SD and that this in turn will lead to SD outcomes.

Our view is that there has to be a dramatic change in the values held decision makers and takers and that this change will happen either as a result of crisis (forced to make changes by events outside your control) or by **a systematic and concerted effort to understand the nature and the inevitability of change**. This may seem dramatic but these trends are already with us and there have been many warnings of their approach. In this context your approach appears to us to be a 'token gesture' and irrelevant. Sadly this is a predictable situation. Vickers observed two absurdities into which human beings often fall when faced with crisis:

*"the absurd speed with which we come to accept as normal almost any outrageous condition once we have actually lived with it, and the absurd slowness with which we come to accept as real any impending change which has not yet happened however near and certain it may be" (Vickers, 1970).*

Much more recently and in the context of organisations, Senge has made a similar observation:

*"the signals of threat are always abundant and recognised by many yet somehow they fail to penetrate the corporate immune system response to reject the unfamiliar" (Senge, 2005)*

From our perspective as a volunteer based organisation we feel that **'good governance' is a critical dimension of responding to and managing change** yet this is one dimension that has been almost ignored in this consultation paper (see our comments above under 'Good Governance', and 'Leadership and Culture Change'). We are also aware that there are a number of people employed in public bodies, across all levels, who are well disposed to a value change but are frustrated by the inertia in some / most public bodies. This suggests to us that your dependence on high level decisions as the 'motor of change' is misguided and ignores a 'latent' resource.

Our view is that a combination of collaboration and engagement across sectors, and not restricted or confined to formal consultations such as this one, is part of the route to both value and consensus change, and the creation of a foundation of a sustainable future. The difficulty for WG is that this idea completely contradicts the approach you are proposing which, while no doubt well intentioned, is nothing more than in-house tinkering of a high symbolic value.

**Q11** It should be clear that we feel, from our own experience of working with and for the public sector, that high level decisions are rarely the source of change. We have made clear our view that the behaviours you list are likely to exist in organisations (although it is very difficult to judge to what degree and to what effect). As far as they do exist at the highest level and they are an influence on decisions then they could provide a useful vehicle for SD issues to attach themselves to. However this has not happened to date to any great extent.

High level decision makers have their own 'consensus' about what is acceptable and unacceptable, partly as a result of personal / professional judgement and partly as a result of the political manifesto they are obliged to deliver. Where one stops and the other starts is often difficult to determine, however there is always a resolution and collusion is not unknown.

Evidence from organisational and policy studies makes it clear that new agendas are not the result of behaviours but of the introduction of 'new realities' by individual and forceful 'policy entrepreneurs' which are recognised by receptive senior managers. In other words the argument for change has to be made and heard internally but the creation of the argument and the justification for it can be the result of collaboration across sectors and public bodies. From our experience many public bodies are resistant to considering any 'new reality' or alternative scenarios. Problems that raise uncomfortable issues are 'kicked into the long grass' or redefined and translated into manageable problems, e.g. climate change rather than sustainable development.

So your 'top-down' model is not realistic. A 'bottom-up' model of decision making, as part of a re-iterative process, is much more realistic. An alternative to your approach would be to carry out awareness raising events which ignore hierarchies and sectors. This might be a heretical idea, but the assumption that all knowledge, information, wisdom, expertise, in this rapidly changing world, is 'held at the top' (or the with most senior officers at highest level), has to be challenged and the way to do this is to empower all levels to contribute to the debate collectively. To maintain 'business as usual' will simply accelerate the legitimacy crisis which democratic public bodies are facing.

**Q12** The question here is how would you know if the behaviours had been adopted? With post-hoc annual reporting and a duty that is easily to comply with it is unlikely that an 'unlawful' decision could be proven. The issue here is not how the decision is made but what decision was made. As we said

above the behaviours, even in complied with, do not guarantee an SD outcome. You are tinkering with the engine but not turning the steering wheel!.

**Q13**, in Para 92 you offer a list of 9 objectives that could be the heart of Sustainable Development.

From the way they are presented we have to make the comment that the language is extremely tentative. Words such as: 'promote', 'respect', 'enable', and 'recognise' do not portray a desire to intervene and make a difference. A Government with powers should be more assertive and recognise that it has the power and resources to effect change. So, for example:

- \* greater economic equality could be achieved by WG and public bodies reducing the massive inequality of salaries in the public sector,.

- \* healthy functioning eco-systems could be created by those public bodies owning land (such as farms owned by local authorities (including National Park Authorities, and the church) adopting best environmental practice in agricultural.

What is missing from this list is any reference to resource depletion and the need to reduce resource use...and waste. So, where is the reference to sustainable production and consumption, and re-use and recycling?

Furthermore there is no recognition of the tension and conflict between these objectives. In other words how, when resources are in short supply, do you achieve social justice and equality and a vibrant economy? The answer, of course, is that new redistributive policies (such as rationing, and a carbon tax) have to be developed and existing ones effectively implemented. Managing the 'allocation of pain', as the current austerity measures have been described, is an inevitable outcome of resource depletion. This then leads to the inevitable question about whose wellbeing, social justice, life, interests and decisions should take priority? These objectives simply ignore context and the rapidly emerging economic, social, environmental and financial, trends.

**Q 14** In the tentative way you have presented the objectives it will be very easy for high level decisions to interpret them in such a way that they can be easily accommodated. In fact, as you have previously mentioned, wellbeing is already a duty and it is difficult to judge whether that duty has been fulfilled, and particularly, if wellbeing has been enhanced, whether that has been due to specific public sector activity. This ambiguity and flexibility is an advantage for decision makers but a disadvantage for those wishing to see practical action that will achieve a sustainable future.

**Q15** Our answer to question 14 provides an answer. In other words how will you evaluate and prove that an objective has failed to have any influence on a decision?. It is possible that no decision will be made because it would detract from an objective!

The idea that a decision is lawful, ie, will fulfil the duty, if it contributes to a single objective ignores the very nature of sustainable development. The whole point is to understand how objectives can contradict each other and then to resolve them. **It is the resolution that is the crucial decision.** As we explained above the 'economic imperative' dominates decision making and social and environmental objectives are secondary ('jobless growth' is not uncommon). Delivering sustainable development requires a new way of thinking and a new set of priorities. So rather than suggesting or implying, as you do, that all objectives are of equal value (which they are not at the moment), you have to construct objectives, or principles, which require resolution, and, we would argue, require public bodies to explain how they resolved them. If you consider the UKSDC 5 principles of sustainable development you will see that there is no suggestion that a sustainable economy should increase economic inequality, increase poverty, and destroy bio-diversity. What is said is that the costs have to be met by those who impose them. In other words these 'externalities' have to be built into the costs of production and consumption. There are already signs of this approach in the EU 'Bio-diversity Strategy 2020' which encourages Government's to develop regulations and fiscal measures to slow down the pace of bio-diversity loss. More recently the Head of the IMF has advocated green taxes (on carbon fuels and water) and the redistribution of wealth through pay restraint as environmental damage and social unrest rise up the international agenda (Guardian, 13<sup>th</sup> June, p 20).

**Q16** Our answers above make it clear that we are of the view that you should change your approach to one which adopts the UKSDC principles on which to base decisions and activities. Such an approach will require a new set of values, new ways of thinking (with sustainable development as the overarching priority) and a new way of formulating and delivering public policy.

**Q17** We appreciate your desire to consider all approaches, however odd they may be. A single sustainable development proposition would be reducing it to such simplicity and generality as to make it meaningless. Your choice of the concept of 'wellbeing' characterises this.

**Q18** Our view is that the time it will take to embed SD will vary across the public sector bodies. Some will be more receptive than others. At the outset, therefore, some form of audit or baseline position should be required.

We also believe that within 6 months of the legislation being introduced all public bodies should produce a 'Sustainable Development Strategic Statement' which would explain how they intend to interpret and apply the duty and the principles. From this a 'management of change programme' should be drafted and implemented. We feel that this programme could be carried out within a further 6 months. 'Day 1' would therefore start 12 months after enactment.

We would not expect SD as a COP to be applied from 'Day 1' across every Unit, Service or Department in every public body. One approach would be to invite every public body to submit a part of its organisation to the new SD 'regime' in return for which it would be provided with support, advice, etc. Over time the approach could be cascaded within the public body and across the public sector. We also feel that the role of the Single Body, and SD as a COP, should be seen as enhancing public services and providing staff with new skills which are an asset rather than seen as imposing an onerous duty!

As we have suggested above, from 'Day 1' we see no reason why day-to-day decisions taken by local authority committees on the recommendation of officers (eg such as land use planning decisions) should not be required to consider the sustainable development implications of the decision. This would have the benefit of embedding sustainable development and, perhaps, equally important, provide the public, WG, and the Single Body with information on how the duty and principles are being interpreted as well the likely or intended outcomes. Over time this experience would improve the ability of officers and politicians to consider sustainable development and help the Single Body to identify difficulties and issues.

Of course, even if some departments in some public bodies apply SD principles immediately there is no guarantee that these decisions will survive collaborative or partnership working. Partners who are less receptive could push the SD agenda 'off track'. The compliance arrangements would expose the range of experiences and the importance of negotiation and bargaining in achieving sustainable development outcomes.

**Q 19 and 20** Guidance and advice will no doubt be necessary. Whether this should be by WG or the Single body is an odd choice. Why should it be one or the other? In our view providing guidance will require WG and the Single body to collaborate. In fact one would hope that WG would be keen 'pilot' and test guidance as well as provide examples of best practice. Clearly the role of each body, and how they relate, needs to be clarified.

There seems to be an assumption that all public bodies will be receptive to the new duty. Rather than assume this we would want guidance to include how the compliance 'regime will work' and what evidence public bodies will be required to satisfy a positive evaluation. Our concern is that the examples of SD provided in this consultation paper would not achieve compliance as appropriate evidence is not available to indicate that the developments satisfy, or have resolved, all 5 UKSDC principles.

**Q21** The consultation paper mentions a number of pieces of legislation that already place a duty with regard to wellbeing (but ignores the duty to encourage SD in section 39, of the 2004 Planning Act). There could be a case for unifying and simplifying the legislation under the SD Act.

**Q22** TENP Trustees do not feel sufficiently expert to answer this question.

**Q23** As we have commented above, we feel that annual reporting is quite inappropriate particularly as it misses the opportunity to embed sustainable development in 'day-to-day decisions' of local government, and others, which are available to the public for scrutiny.

The assumption that 'high level decisions' determine other decisions is optimistic. It is the day-to day decisions which will indicate whether on not sustainable development is embedded in the thinking and behaviour of all staff, which it needs to be. There are a whole 'raft' of decisions, eg, on procurement, recruitment and selection, planning decisions, business plans, salaries, property and land management, etc, that need to be sustainable development relevant.

At the Pembroke consultation there was a suggestion, or speculation, that a decision on the purchase of photo-copy paper would be subject to scrutiny and compliance. The reality is that it will be the

resources dedicated to the compliance body that will determine the capacity to scrutinise and ensure compliance. Compliance capacity will be limited (as all regulatory capacity is) and a strategic choice will have to be made about which and how many decisions can be scrutinised.

**Q24 No.** However what is missing from this consultation is the implications of the proposed duty on those voluntary and community sector bodies which are involved in, and are a crucial partner in, the design and delivery of public services and which, in some cases, receive funding from the public purse. 'Governance' and the delivery of public services, extends beyond the statutory sector.

**Q25** One obvious and glaring omission is 'trust ports', which are public bodies reporting to the Department of Transport, eg, the Milford Haven Port Authority. The explanation is that the activities of this public body have huge implications for the environment and bio-diversity, as well as the community and the local and national economy.

**Q26** If you wish to build a consensus then you have to base that on an agreed understanding of the term 'sustainable development'. As your 4 examples, and our comments above, confirm there is still no consensus and clarity. The word 'sustainable' and the term 'sustainable development' litter this consultation paper but they are not used consistently or clearly. It is for WG to be more disciplined and provide a definition, and we have suggested one which we feel is superior to that suggested in this document, (see para 11.1 d).

The point that you make about the understanding of SD changing over time is slightly misplaced. Our concern is that it is the interpretation of the word/term that is ever-changing, it means everything and anything to everyone. It can be hi-jacked and people can, and do, 'cherry pick' those aspects that they find useful and supportive of the decisions that they wish to make and ignored those aspects which create difficulties for them. The term is chameleon like.

This characteristic can only be overcome a clear definition AND a set of clear principles which give the definition operational relevance, which is why we advocate the 5 UKSDC principles (see paras. 6.3i – 6.3 v, above)

**Q27. NO!**

**Q28** We would argue that the Single Body should be to engage with public bodies and the community in raising awareness and understanding of sustainable development as defined in the duty and as expressed in the 5 UKSDC principles of sustainable development.

In addition the Single body should work with public bodies to deliver 'the duty'. As we have suggested above this work should take a number of forms. Models of staff development and public policy research and development centre exist across the UK which WG might wish to consider.

**Q29** We agree that the emphasis of the Single Body should be advice and guidance but feel that scrutiny and holding to account could be implicit, if not explicit, in this role. For example, if advice and guidance were offered but ignored, and this was a matter of public record (such as the minutes of Overview and Scrutiny Committees) then such transparency may have a positive and encouraging influence.

A related point on grievances and holding to account, is that numerous policy instruments that help to 'deliver' sustainable development' are currently poorly implemented, perhaps due to lack of priority, staff, expertise or resources. There is no point having as Single Body encouraging public bodies if at the same time existing mechanisms (regulations, designations, permissions, etc) are not adequately resourced and enforced. Therefore, whilst the Single Body may advise and guide WG will need to review and respond to any shortfall or failure in the delivery of policies, and this will include a mechanism for dealing with grievances.

**Q30** We are not sufficiently well informed to provide response. However, on the question of funding by WG, we feel that this should not be the only financial support. Firstly, because independent status might be compromised if WG was holding the only 'purse strings'. Secondly, the Single Body should have the freedom and discretion to attract grants, negotiate contracts to carry out work across the public and voluntary sectors, trans-nationally, and to establish a staff development service for staff across all sectors.

**Q31** Yes, although why would you not prefer to title a periodic report 'Our Progress to a Sustainable Future'?

**Q32** It would be appropriate for a single body providing advice, expertise and support to collaborate with the compliance agency to encourage the adoption and implementation of the duty.

**Q33** We agree with the need for independence..

**Q34** On accountability, we would expect that in the interests of transparency and good governance the details of the activities and budget of the Single Body would be available to the public. As with local authority Cabinet and Committee minutes, we would expect the Single Body to make similar material available on-line.

Yours Sincerely

Mr C Mason.

Chairman of TENP.

On behalf of the Trustees.

## Welsh Government Consultation Document – Proposals for a Sustainable Development Bill

### Response from One Voice Wales

#### General Comments

One Voice Wales is recognised by the Welsh Assembly Government as the national representative body for community and town councils in Wales. It represents the sector on the Local Government Partnership Council and over 70% of the 735 community and town councils are in membership. As well as our representative role, we also provide support and advice to councils on an individual basis and have previously launched, with Welsh Government support, a modular training programme for councillors. We believe strongly that community councils are well-placed to develop the economic, social and environmental well-being of the areas they serve and, as such, are active and proactive in debating key issues such as energy policies, environmental issues and strategic planning.

Whilst individual councils, indeed individual members, may submit responses directly to this consultation exercise, this collective response is made on behalf of the sector as a whole.

The overall response from colleagues across the sector is one of considerable support for this initiative and for new legislation in particular. Whilst the sector comprises such a vast range and type of local council, the common view is that this measure will assist in creating a better country and a better environment from the point of view of our local communities.

Many examples already exist of where individual councils or clusters of local councils have developed projects based on sustainable behaviours or objectives, and as a sector based organisation we are constantly promoting opportunities for these projects to be shared across the wider country.

In terms of specific replies to the many questions asked in the document, One Voice Wales has taken a composite approach in terms of what our member councils have said, and provided replies to those questions that appear most relevant to the comments that have been made.

## Responses to Specific Questions

Q.1 What are the principal barriers you face to taking more long-term, joined-up decisions?

There are a number of existing challenges facing the community and town council sector in Wales as set out below though in no particular order of priority:

Short term financial cycles – the annualised precept reduces the ability of the sector in Wales to plan for the longer term and potentially stifles innovation and creativity at the first tier of local government.

Lack of role definition for the community and town council sector – One Voice Wales advocates that if there were greater clarity over who was responsible for which services locally then this would assist the sector in taking a more proactive role within its communities. For example, at present both the first tier and second tiers (Unitary Authorities) have at present overlapping service provision responsibilities eg grass cutting which has the potential to create a situation where double taxation may occur.

Determination of which services are the remit of the respective sector will enhance local determination and greater accountability and transparency within communities of who is responsible for what. The unintended outcome of this current situation is that the sector has generally been risk averse ie not wishing to unnecessarily tax people at the local level for services that are seen as local authorities remit.

In terms of joined up decision making there are some structural governance issues that need to be addressed if there is to be collaboration not only at the horizontal level across public services in Wales but also vertically – the need for transparent multi-level governance structures will ensure there is a direct flow of information from Welsh Government down and from communities up. By this One Voice Wales wishes to see the role of the community and town council sector formally recognised by the mandatory inclusion of the sector around the Local Service Board table. This will encourage whole system thinking within geographic areas and connect the grass routes to the strategic decision making frameworks and enable the Single Integrated Planning



process to derive evidence from the 'bottom up' to support community planning activities.

Similarly there are currently 10 Charter protocols between the community and town council sector and unitary authorities in Wales – whilst progress is being made on this agenda further support is needed to deliver these across all 22 unitary authority areas and to make them the local mechanism for identifying and delivering social , economic and health wellbeing initiatives within communities.

The Local Government (Wales) Measure 2011 came into force mid 2011 however the sector is still awaiting formal guidance on how to enact the Power of WellBeing power from Welsh Government – this is naturally delaying the sectors ability to enact and deliver for its communities across Wales. At the present time this is due to be delivered in Autumn 2012 however any delay on the guidance will mean that community and town councils will not be in a position to consider the use of this power in their precept considerations for 2013/14.

There are increasing expectations being placed on the community and town council sector to support the strategic goals of government. Prior to the Local Government (Wales) Measure 2011 there were no powers available to Ministers in Wales to provide specific grants to the sector. To enable the community and town council sector to play a more active role in future there will be a need to resource the development of new skills and capacity within the sector. For example, robust community engagement to evidence the development of 'Sustainable Development Action Plans' within communities that clearly link the precept to local needs will both create additional costs at the local level and the need for new skills to be acquired. Consideration of specific grants from Welsh Government to support such activity will help to facilitate the transformation of the sector and to play a full and active role in community planning across Wales.

Q.2 What actions need to be taken, and by who, to reduce or remove these barriers?

One Voice Wales wishes to declare its general support for the proposals contained in the document, and for the new duty in particular. Previous attempts at joined-up promotion of key

messages such as the issue of sustainability may well have failed either as a result of insufficient clarity in the approach undertaken or, alternatively, perhaps as a result of over-prescription in terms of the duty to demonstrate progress or compliance. We are pleased that the bureaucracy inherent in a strictly tick-box approach is being ditched for, hopefully, a more flexible framework.

A specific action in the immediate term would be financial support to expand the Strong Roots programme One Voice Wales and Cynnal Cymru have been delivering over the last year. This has been a highly successful training collaboration that has helped to uncover many best practice initiatives within the community and town council across Wales supporting sustainable development.

Over and above the actions already suggested, medium to longer term actions to reduce or remove some of the barriers identified in section 1 would be an extension of the Simpson Review carried out in 2010 to consider the sorts of services and new models of provision that could be undertaken at the very local level. With increasing pressures on Unitary Authority budgets there is an increasing expectation that the community and town council sector will take on more services into the future – the need for a transformation programme to consider how this is best delivered will be a necessary prerequisite before new models are developed.

In light of the Local Government (Wales) Measure One Voice Wales considers that a statutory review of the role of the sector should be undertaken to help to define the role and responsibilities for the community and town sector into the future and in particular the opportunities of using the Power of WellBeing to support social economic and health wellbeing outcomes at the very local level. To inform the above One Voice Wales would welcome support for resources to assist the development of a ‘think tank’ led by the Commissioner for Sustainable Futures that reports into the Public Services Leadership Group led by the Minister for Local Government and Communities. The resource requirement would enable the commissioning of specific research to inform discussion and debate on how the community and town council sector can best support the development of sustainable communities across Wales.

Q.4 Have we identified the most appropriate level of organisational decision-making at which the duty should be applied? Please explain.

This level is suitable to apply the new duty, as it offers strategic as well as operational potential for all public bodies to consider.

Q.7 Should we include decisions which govern an organisation's internal operations<sup>33</sup> ? If so, which internal operations should we include?

Q.8 Should budget proposals be subject to the duty? Please explain.

Answer to 7 and 8: A key issue for the community and town council would be whether this had any significant implication on resources. As the funds of the sector are based on a locally derived tax placing increasing compliance requirements would bring into question whether the sector should receive specific revenue funding from government.

Q.16 What are the advantages and disadvantages of basing a duty on sustainable development behaviours *and* sustainable development objectives?

The combination of behaviours and objectives provides a good framework model on which to base the duty and the approach to any public sector response. A two-tier model provides flexibility, but with sufficient potential for a robust delivery/reporting platform.

Q.17 What are your views on basing a duty around a single sustainable development proposition?

This would provide insufficient clarity in relation to what public bodies would need to focus on with regard to their compliance with the new duty.

Q. 19 Would it be helpful to issue formal guidance to organisations subject to the new duty?

Yes.

Q. 20 Should any such guidance be issued by the Welsh Government or the new sustainable development body?

Both.

Q.24 Are there organisations on this list that should not be subject to the duty? Please explain.

It is interesting to note that it is only the Community and Town Council sector that does not currently receive some form of revenue support from Welsh Government of those organisations identified that would be likely be subject to the duty – whilst the sector welcomes the development of the duty it nevertheless considers that revenue needs to follow functions and if there is an expectation that the sector is to be compliant then resources need to be identified to create the capacity within the sector to deliver on the basis of a level playing field with other public service organisations. The Local Government (Wales) Measure 2011 provides Ministers with powers to make specific grants to the sector for the first time and One Voice Wales considers it critical that consideration of how community and town councils are funded into the future be a work stream for the Consultative Forum on Finance led by the Minister for Local Government and Communities and Minister for Business.

Q.27 If we were to define “sustainable development” do you think that the working definition above would be suitable and why?

The definition provided for Sustainable Development is a good definition. It provides a clear and unambiguous statement of what is trying to be achieved.

Q.31 Do you agree with the proposed functions for a new body established on a statutory basis?

The functions appear to be satisfactory, although there will need to be considerable flexibility in practice, for example to enable very small organisations, in the absence of any new funding to support their activities, to be able to respond in a more simplistic manner.

Mr Lyn Cadwallader  
Chief Executive, One Voice Wales

Dr. J.D. Morgan  
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17<sup>th</sup> July 2012



**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**  
**WELSH GOVERNMENT CONSULTATION DOCUMENT**  
**PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL**

**THE COUNCIL'S RESPONSE**

**Introductory and General Comments**

The opportunity to respond to the Welsh Government's proposals for a Sustainable Development Bill is welcomed. Neath Port Talbot County Borough Council is committed to ensuring that sustainable development is central to its strategic, policy and service planning activities and demonstrated in its decision-making, its service delivery arrangements, its joint working arrangements with local partners and its regional collaborative working with other local authorities and wider partners.

By their very nature local authorities have always worked on the basis of sustainable development principles, albeit that this is relatively new language considering how long local authorities have been in existence. Elected Members have always provided community leadership to the citizens and communities they serve, representing their interests, aspirations and needs, and local authorities always strive to make decisions which are in the long-term best interests of their citizens and communities. Councils and elected Members are supported by a cadre of professional officers who, in their training and continuing professional development, are also steeped in ensuring that the overall well-being of the community is a major factor in the advice given to the Council prior to decisions being made and in the planning of services and their delivery.

Over time what constitutes "the best interests of the community" has changed as different policy imperatives have emerged. The Council's first Policy Agreement with the Welsh Assembly Government attempted to describe its then current approach to this, emphasising a range of considerations that need to be taken into account when making decisions. The Council would not claim total success in adopting a comprehensive system approach to embedding sustainable development principles in everything it does, but we keep striving to do so. No doubt, given the wide ranging nature of its Departments, the Welsh Government finds itself in a similar position.

What has changed in recent years are the increasing demands placed on local authorities to provide detailed evidence to the Welsh Government, regulators and other organisations that it is doing things in accordance with an ever-increasing wealth of detailed guidance and statutory requirements. This is onerous, time-consuming and uses scarce resources which could be better deployed elsewhere.

The Council appreciates that the promotion of economic, social and environmental wellbeing requires a whole system approach to tackling issues, which involves identifying impacts, costs and benefits, managing in partnership and a greater emphasis in services on early intervention and prevention and there is a commitment to this direction of travel. We also appreciate the need to show continuous improvement and, as mentioned above, to have a consistent approach.

We understand why the Welsh Government suggests that the sustainable development duty will apply to the most influential decisions, such as longer term strategies, annual plans and general or specific policies. However, also including high level budget decisions would help ensure consistency with the specific equality duty, which requires equality considerations to be addressed as part of the budget setting process.

Either behaviours, objectives or a single sustainable development proposition could be used to measure progress but the Welsh Government should ensure that, whatever is used, it is consistent with the Results Based Accountability (RBA) performance management framework which the Welsh Government is increasingly promoting and which we are adopting locally in our approach to partnership working, partnership rationalisation and the single integrated plan as well as in our own organisational performance management arrangements.

Our existing annual improvement report could be used to provide an overview of progress, but a more detailed non-statutory report setting out what has been achieved in implementing the sustainable development duty may be required during the initial years of implementation. This is currently the case with equalities and the Welsh language.

With regards to a new sustainable development body, it would be helpful if this body once established, works closely with other bodies involved with inspection, scrutiny and compliance, e.g. Wales Audit Office, CSSIW, Estyn, and the various Commissioners (Welsh Language, Children, Older People and Equality and Human Rights Commission).

It is disappointing that there is little, if any, reference to Living Wales, the Natural Environment Framework. A Living Wales outlines the principle of healthy, functioning ecosystems underpinning sustainable development; however the consultation paper merely acknowledges the fact that healthy and functioning ecosystems are an important part of sustainable development. It appears that both documents have been written independently of each other; however there are clear synergies between the two. In order for any Sustainable Development Bill to succeed, it needs to be seen to be delivering the principles of the Natural Environment Framework.

From a wider perspective the Council believes that the Bill offers a great opportunity to ensure that Wales also supports international development; tackles climate change; and protects the environment - but the Bill needs to be clear as to how this will be achieved.

The Council's responses to the specific consultation questions are set out below.

**Q1: What are the principal barriers you face to taking more long-term, joined-up decisions?**

The current economic climate, with reducing financial resources and increasing demands, can consume local authorities' capacity to consider the longer term. There is no easy solution to this other than, as the consultation paper suggests, adopting a system approach to embedding sustainable development principles, particularly in respect of resource allocation. The Council has achieved this with regard to equalities, ensuring that its budget setting processes include equality impact assessments.

The major barrier is the way in which local authorities' freedom of action is restricted by detailed requirements placed on them by Welsh Government, regulators and other sponsored bodies. This soaks up capacity and does not serve the public well. The Welsh Government should be setting policy frameworks within which local authorities have the freedom of action to do what is needed, in their own local circumstances, to achieve the outcomes the Welsh Government desires. Equally, the regulatory regime needs to change its focus in the same way. There needs to be more self-assessment and proportionate risk-based interventions by regulators, focussing on early intervention to support local authorities that are performing poorly. There is clear evidence that regulators are beginning to adopt this type of approach, which is encouraging. The Welsh Government should ensure that it, and its regulators and sponsored bodies, do not get involved in micro-managing local authorities, other than in exceptional circumstances.



More specifically, local authorities need to continue to strive to adopt consistent, corporate approaches to sustainable development, ensuring that this is not seen as an add-on or simply an environmental issue, but as part of everyone's mainstream activities.

**Q2: What actions need to be taken, and by who, to reduce or remove these?**

This question has been partly answered in the introductory and general comments and in the answer to Qu. 1.

More specifically, there needs to be promotion/awareness raising and training provision co-ordinated by the Welsh Government, the new sustainable development body and the Welsh Local Government Association to achieve a shared understanding of sustainable development and how to embed its principles in their day-to-day responsibilities. The Welsh Local Government Association could create a "community of practice", identifying exemplar authorities and sharing best practice.

**Q3: What other evidence is there about the extent of progress in relation to the SD agenda and making SD the central organising principle?**

The Council has a compliance reporting methodology which is currently under review to improve its effectiveness and consistency. This shows, at least on face value, that sustainable development principles are taken into account when decisions are made. There is always a balance to be struck with some decisions being made where perhaps financial considerations outweigh environmental ones, but the important point is that these issues are highlighted and considered in coming to a decision. The issue for the Council is to ensure that everyone understands the sustainable development principles, how to assess and apply them to proposals in accordance with the Council's policy on sustainable development and to be consistent in their application. The Council, as mentioned above, is working on this and expects real progress to be made over the next 12 to 18 months.

**Q4: Have we identified the most appropriate level of organisational decision-making at which the duty should be applied?**

Yes, the duty should apply at the highest level. It is fundamental to a local authority's strategies, policies and plans; and to its annual budget setting processes. The application of the duty at this high-level of decision-making will ensure that a local authority builds sustainable development principles into its service delivery and business plans.

**Q5: Would this approach risk capturing some decisions which should not be subject to the duty?**

No.

**Q6: Are there any decisions that are not captured by this approach which should be subject to the duty?**

It is possible, but the response to Qu. 4 reduces this risk significantly

**Q7: Should we include decisions which govern an organisation's internal operations?**

No, as these would be outside the high-level of decision-making. However, the duty should flow through to these decisions from this.

**Q8: Should budget proposals be subject to the duty?**

Yes.

**Q9: Are all of the behaviours we identify critical to acting in way that reflect sustainable development thinking?**

Yes. They provide a framework to provide evidence to help decision-making in accordance with sustainable development principles and help to embed these into organisational planning activity.

**Q10: Are there critical behaviours that we have not identified?**

No, but you may wish to consider global impacts of local behaviours – although there may be few instances of this.

**Q11: What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?**

They help to easily embed sustainable development principles within a framework which allows for flexibility and which creates an environment which becomes amenable to taking account of these principles as a normal part of the organisation's culture. The only evident disadvantage is the difficulty which will sometimes arise of coming to a decision which requires widely divergent factors to be balanced (not really a disadvantage; decisions have to be made).

**Q12: How much influence should sustainable development behaviours have over high level decisions?**

Decisions should be based on the evidence arising from the factors and, as long as it can be demonstrated that all of the evidence relating to all of the factors have been taken into account, then whatever decision is reached has been influenced by sustainable development behaviours and should not be challenged or be considered unlawful.

**Q13: Are there core sustainable objectives we have not identified?**

No

**Q14: What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?**

Using objectives is too broad an approach; it will result in a tick-box mentality approach rather than embedding sustainable development principles.

**Q15: How much influence should the objectives have over high level decisions?**

Not applicable given the response to Qu. 15

**Q16: What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?**

This approach is too complex to assist in embedding sustainable development principles. A behaviour approach would be better used to set objectives that demonstrate an understanding of sustainable development.

**Q17: What are your views on basing a duty around a single sustainable development proposition?**

It would be difficult to measure the duty based on a single proposition; and too broad to embed the principles.

**Q18: How much time should organisations be given to make these changes?**

Local authorities should be given sufficient time to implement the duty over its normal planning cycle – usually three years. There will be different timeframes for different local authorities dependent on their planning cycles.

**Q 19: Would it be helpful to issue formal guidance to organisations subject to the new duty?**

A formal guidance framework exists through the Local Government (Wales) Measure 2009; the Wales Programme for Improvement. Plans to implement the duty can be set out in the Improvement Plan with progress being reported in the Improvement Report. Informal guidance as part of a training and development programme would be extremely helpful in informing implementation plans.

**Q20: Should any such guidance be issued by the Welsh Government or the new sustainable development body?**

The training and development programme, including informal guidance, should be co-ordinated by the Welsh Government, the new sustainable development body and the Welsh Local Government Association; and delivered by the Welsh Local Government Association.

**Q21: Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?**

No, but the Welsh Government could consider introducing the new duty by amending the Local Government (Wales) Measure 2009 which already requires local authorities to take account of sustainable development, reserving the Bill for the creation of the new sustainable development body.

**Q 22: Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?**

Not aware of any.

**Q23: Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?**

Yes, as mentioned above, local authorities are required by the 2009 Measure to report on their Annual Improvement Plans. Compliance with the duty can be included in this report.

**Q24: Are there organisations on this list that should not be subject to the duty?**

No comment

**Q25: Are there any organisations that are not listed above but which should be subject to the duty?**

No comment

**Q26: Are there other advantages or disadvantages to defining ‘sustainable development’ and if so, what are they?**

The advantages are: gaining a common understanding of what we are trying to achieve, individually and collectively; and removing rather than creating barriers to working together.

**Q27: If we were to define sustainable development do you think that the above definition would be suitable and why?**

The definition proposed in the consultation document is fit for purpose.

**Q28: What should be the overall purpose for a new sustainable development body?**

The purpose set out in the consultation document is appropriate.

**Q29: Do you have any views on the preferred approach regarding the main functions of the new body?**

Paragraphs 157 and 158 of the consultation document are appropriate to the functions of the new body.

**Q30: Are there significant disadvantages to establishing a new body on a statutory basis?**

No comment

**Q31: Do you agree with the proposed functions for a new body established on a statutory basis?**

Yes with the exception of the power to require organisations to provide information on how they are implementing the duty. This power should rest with the Auditor General for Wales through the provisions of the Public Audit (Wales) Bill.

**Q32: Are there any other functions which should be considered?**

No.

**Q33. Do you have any particular views on the independence of a new body?**

The new body should be independent from the Welsh Government.

**Q34: Do you have particular views on the accountability arrangements for a new body?**

The new body should be accountable to the Welsh Government and subject to scrutiny by the National Assembly for Wales.

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## **May-July 2012 – Welsh Government Sustainable Development Bill Proposals consultation.**

### **Response of Newport City Council**

#### Overview

Newport City Council is supportive of the Welsh Government's commitment to promoting Sustainable Development and welcomes the opportunity to respond to this early stage consultation.

Whilst Newport City Council is supportive of the principle of legislating to promote sustainable development, it must be recognised that legislation can only ever be a part of the answer. Equally important are attitudes and understanding within public bodies and across the population as a whole. Government has a critical role to play in winning this 'battle for hearts and minds'.

Making sustainable development the central organising principle of public bodies is an important and welcome statement of intent, but turning this from rhetoric to outcome will be extremely challenging – as the experience of the Welsh Government itself amply demonstrates. The most significant part of this challenge will be to identify not only the criteria by which key decisions are deemed to be sustainable, but also in what circumstances a decision will be considered *unsustainable* – it is difficult if not impossible to think of a circumstance in which a public body would advocate a decision which it did not feel was in either the social, environmental or economic interests of the community for which it is responsible. The test will be to what extent these sometimes competing interests are permitted to be traded off against one another.

Given the importance that the consultation document rightly attaches to working across organisation boundaries, it is surprising that there has been almost no mention of Local Service Boards or the requirement for local authorities to lead on the production of Single Integrated Plans. Potentially these plans could be a crucial vehicle for implementing the Bill.

Whilst the focus on public bodies is understandable, if the Bill is ultimately to have any impact then the role of Wales's substantial private and voluntary sectors also need some consideration.

It is difficult to comment definitively on a sustainable development duty without knowing the detail of what the duty will be. However, the legislation in the field of equalities provides a useful model of how a positive duty (i.e. a duty to actively promote) can have real impact. In addition, consideration must be given at an early stage as to where the responsibility for regulation and enforcement of this legislation will lie, and to ensure that which ever body has this responsibility is equipped with the necessary expertise to carry out this function.

Finally, whilst Newport City Council is committed to acting sustainably, it must be recognised that local government and public services more widely are operating in a context of substantially reduced resources. Any new duties from Welsh Government must be mindful of this context and should seek to avoid overly bureaucratic, burdensome solutions and it is imperative that any new requirements are accompanied by commensurate funding.

### **Promoting sustainable development (section 3)**

*Q.1 What are the principal barriers you face to taking more long-term, joined-up decisions?*

The absence of a widespread, commonly held understanding of what long-term, joined-up thinking entails is a significant barrier. There remains a need to win hearts and minds across the public sector and with the population more widely.

Political (democratic) cycles make long term thinking challenging. Quick wins are easier to communicate to the public. This problem is by no means limited to politicians – individual careers in the public sector (and beyond) are often bound up with short-term success. The system of financial rewards for performance between Welsh Government and local authorities (e.g. outcome agreements) works on terms of no longer than three years.

The focus on short-term economic gains can also be a significant barrier (see below).

*Q.2 What actions need to be taken, and by who, to reduce or remove these barriers?*

National training resources for decision makers (at all levels). Requirement to train employees (in line with original race relations requirements)?

A greater role for an independent body which can advocate for sustainable development in social policy – along the lines of Children's Commissioner or Older People's Commissioner – off-setting some of the less positive aspects of the electoral cycle.

Possibly some form of much longer term financial reward incentives (with interim payments) to supplement rather than necessarily replace existing arrangements?

A greater focus on 'responsible capitalism' where the emphasis is upon equity as much as growth (for example Newport City Council's emerging Fairness Commission).

### **Evidence in relation to sustainable development (section 4)**

*Q.3 What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?*

It is questionable to what extent making sustainable development the central organising principle of Welsh Government has resulted in more sustainable decision making at this level. For instance, the failure to allocate the £17m needed for the Newport to Ebbw Vale rail link.

This observation is offered not so much by way of criticism, but more as illustration of the challenges of embedding SD thinking, even when the will is apparently there.

### **A new sustainable development duty (section 6) The level of decision making to which the duty applies**

*Q.4 Have we identified the most appropriate level of organisational decision-making*



<i>at which the duty should be applied? Please explain.</i>
<p>Broadly speaking, yes, this is a reasonable compromise, although need more detail to comment definitively. It is felt that, at this point, there would be a greater chance of making a measurable impact by limiting (and hence concentrating) the scope of the duty. It would be easier to extend the duty later than it would be to rein it back in.</p> <p>This view does of course depend upon the detail of the duty. The current equalities legislation provides a useful framework for a positive duty.</p>
<i>Q.5 Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?</i>
This seems unlikely – although, again, this would depend upon the detail of the duty.
<i>Q.6 Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?</i>
This approach might exclude management of internal resources, which would be unfortunate as this is in many respects one of the more straight-forward areas for public bodies to tackle.
<i>Q.7 Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?</i>
Yes. It is reasonable to expect large organisations to have regard to SD with in respect of, for instance, resource management, procurement, employment practices, buildings, fleet management, working practices etc (e.g. council's should be leading by example with things such as travel plans for their own workforces).
<i>Q.8 Should budget proposals be subject to the duty? Please explain.</i>
Yes – now more so than ever, budgets drive key decisions and are critical to influencing behaviour.

### **The behaviours approach**

<i>Q.9 Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.</i>
They are certainly all relevant.
<i>Q.10 Are there critical behaviours that we have not identified? Please explain.</i>
<p>Possibly something about thinking beyond traditional geographical boundaries?</p> <p>Would also maybe add 'empowerment' to engagement and involvement.</p> <p>Also, considering environmental / resource limits?</p>

<i>Q.11 What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?</i>
It's a more systematic way of embedding sustainable development and, if done properly, should also influence outcomes. However, without a measure of what is actually achieved there is a risk that well intentioned efforts end up being misdirected.
<i>Q.12 How much influence should sustainable development behaviours have over high level decisions – for example, should those decisions be lawful if they have been reached in a way that:</i>  <i>is consistent with one, some or all of the behaviours;</i> <i>broadly reflects the behaviours;</i> <i>is not inconsistent with the behaviours?</i> <i>are there other options?</i>
A requirement to be consistent with only one of the behaviours is unlikely to achieve meaningful outcomes as almost all decisions will be able to 'tick one of these boxes' whilst potentially remaining fundamentally unsustainable due to failure to comply with others.

### **The objectives approach**

<i>Q.13 Are there core sustainable development objectives we have not identified above?</i>
Not obviously.
<i>Q.14 What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?</i>
It is probably not reasonable to expect all of these objectives to have equal priority at all times, not least because there will be times when some of these objectives conflict with one another. Furthermore, localities need to have some autonomy in determining <i>relative</i> priorities.
<i>Q.15 How much influence should the objectives have over high level decisions – for example, should those decisions be lawful:</i>  <ul style="list-style-type: none"> <li><i>only if they actively contribute to one or more of those objectives;</i></li> <li><i>if they do not detract from any of the objectives;</i></li> <li><i>even if they detract from some of those objectives, as long as they actively promote others?</i></li> </ul> <i>are there other options?</i>
This is a very difficult area to legislate for and probably reinforces the advantages of adopting a behaviours based approach.

### **The combined approach**

<i>Q.16 What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?</i>
Whilst this approach would undoubtedly be very thorough it would be intensely

bureaucratic and disproportionate.

### **A single sustainable development proposition**

*Q.17 What are your views on basing a duty around a single sustainable development proposition?*

This is likely to have less impact and is likely to be interpreted in a range of different ways – although will be easier for localities to interpret it according to their own needs and circumstances. It does, however, have the advantage of being far easier to communicate (see earlier remarks re ‘hearts and minds’). If this option were pursued it would probably need to be supported by more detailed statutory guidance in order to have any impact.

### **The time organisations may need to comply**

*Q.18 How much time should organisations be given to make these changes?*

The timescales would need to tie in with the formation of the national SD body. A phased introduction might be a sensible approach.

### **The provision of guidance**

*Q. 19 Would it be helpful to issue formal guidance to organisations subject to the new duty?*

Yes in principle, although that rather depends what it says of course.

*Q. 20 Should any such guidance be issued by the Welsh Government or the new sustainable development body?*

The new sustainable development body – it can be seen to be impartial and not subject to the constraints of short-term thinking described in Q.1.

### **The repeal of duties**

*Q.21 Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?*

None have been identified at this stage.

*Q.22 Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?*

None have been identified at this stage.

## Reporting

*Q.23 Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?*

Yes – integration with existing mechanisms is crucial.

## The organisations that might be subject to the duty

*Q.24 Are there organisations on this list that should not be subject to the duty? Please explain.*

No

*Q.25 Are there organisations that are not listed above but which should be subject to the duty? Please explain.*

Possible education consortia? Any list defined in legislation will need to be capable of being updated according to the shifting map of public service delivery in Wales (see the Compact for Change between Welsh Local Government and Welsh Government).

## Defining sustainable development

*Q.26 Are there other advantages or disadvantages to defining “sustainable development” and if so, what are they?*

Without a definition the concept is too nebulous

*Q.27 If we were to define “sustainable development” do you think that the working definition above would be suitable and why?*

The definition does not account for the fact that not all problems have a ‘silver bullet’ solution which simultaneously enhances social, environmental and economic factors. Often public bodies need to take difficult decisions which prioritise one of these factor over the others.

## An independent sustainable development body (section7) The purpose of the new body

*Q.28 What should be the overall purpose for a new body?*

Provision of impartial, constructive (not punitive) guidance and expertise and training resources. Possibly a regulatory role (although more detail would be needed before we could fully support this view).

### **The preferred approach for the new body**

*Q.29 Do you have any views on the preferred approach regarding the main functions of a new body?*

See above

### **A statutory body**

*Q.30 Are there significant disadvantages to establishing a new body on a statutory basis?*

Only that it adds to the overall bureaucracy of government. Any such body would need to be proportionate in its scale and scope and would need to demonstrate the value that it adds to Welsh public life.

### **Proposed functions for the new body**

*Q.31 Do you agree with the proposed functions for a new body established on a statutory basis?*

Broadly, yes. Again, any new organisation should have a clear focus on outcomes and should not be overly concerned with process and bureaucracy.

*Q. 32 Are there other functions which should be considered?*

See above.

### **Independence and accountability**

*Q.33 Do you have particular views on the independence of a new body?*

It should as far as possible be independent from WG in order to act as a counter-balance to the inevitable short-term thinking that derives from the reasons outlined in Question 1.

*Q.34. Do you have particular views on the accountability arrangements for a new body?*

The new body clearly needs some form of accountability arrangements in place, but also needs to balance this against the need for impartiality.

## **Response by the Vale of Glamorgan Council to the Proposed Sustainable Development Bill**

### **I should be grateful if you would accept this as the Vale of Glamorgan Council's response to the Consultation Document on a proposed Sustainable Development Bill**

The Cabinet and Members of the Vale of Glamorgan have considered the consultation document and would submit the following as their response. I trust that these views will be taken into consideration during the consultation process.

### **Response to Welsh Government Consultation on the Proposed Sustainable Development Bill**

The Vale of Glamorgan Council welcomes the proposals for a Sustainable Development Bill and as a signatory to the Sustainable Development Charter is keen that the sustainable development agenda is strengthened and is a key principle of how our organisations operate. However there is concern that any new requirements do not lead to an overly bureaucratic process and that legislation is not too prescriptive. The outcome must be a framework which supports and encourages organisations to genuinely embed sustainable development. Legislation should not create a compliance culture which stifles innovation and directs resources away from delivering real outcomes.

This response is structured around the six points which Welsh Government are seeking views on and addresses a number of the questions raised throughout the consultation document.

### **The barriers that are currently faced to taking more long-term joined up decisions and what actions need to be taken to remove these barriers – section 3.**

There are a number of barriers which prevent decisions being more long-term and joined up. These include short term funding streams which often lead to short term planning and changes in guidance and policy which can be out of step with each other and reduce the ability of organisations to forward plan both internally and with partners. Another barrier is often the lack of a sense of responsibility both within organisations and for individuals which can hamper efforts.

If we are to successfully shift our focus to prevention and intervention and develop more sustainable working practices then we need support to make the right decisions for the long term rather than pressures to respond and react in the short term regardless of the long term impacts.

If we are to successfully address some of these barriers and put sustainable development at the heart of everything we do then this will require a significant culture change across the public sector, including Welsh Government to ensure that there are shared expectations.

### **Other evidence that exists about progress in promoting sustainable development – section 4**

We would agree that the process of embedding sustainable development as the central organising principle needs to be viewed as a journey and not an event. That does not mean that progress should be slow but it will be incremental. One of the key tasks is making sure that everyone in an organisation recognises that sustainable development is relevant to them and how they undertake their work and provide services. Strong leadership will be vital in this area to continually emphasise what sustainable development means and that it is not a niche area of work but a central principle of the organisation. It

is also imperative that this message is consistent across Welsh Government, regulators and Inspectorates.

### **The preferred approach to a sustainable development duty that applies to organisations delivering public services – section 6**

We agree that the proposal to focus on higher level decisions is a pragmatic approach as these will have the greatest influence over organisational behaviour. We also support an approach that allows organisations the discretion and flexibility needed to respond positively to the duty in a way that meets the needs of the people and communities we serve. If sustainable development is to be the central organising principle, it follows that budget proposals will need to be subject to the duty.

The suggested list of behaviours and objectives reflects what many organisations will already have in place, and the concern is that whichever list or combination is decided upon, it may result in a tick box exercise. The suggested factors whether behaviours or objectives are appropriate but guidance and examples of how these can be integrated into the decision making process without merely resorting to a checklist would be useful for organisations struggling to put in place meaningful procedures.

### **Opportunities for reviewing existing legal duties and simplifying the legal landscape, in light of the proposed SD bill – section 6**

We would welcome any simplification of the legal landscape in light of the proposed Sustainable Development Bill. We also agree that organisations should not be compelled to produce separate sustainable development annual reports. If sustainable development has been successfully embedded within the organisation then it would be a natural progression for it to be included within existing annual reporting requirements.

Similarly we would not wish to see sustainable development as part of a separate and distinct inspection or audit regime. If it is to be successfully integrated into how we work it must be integrated into the existing inspection and audit framework and not be viewed as a separate exercise.

### **The merits of having a single definition of ‘sustainable development’ that applies across the Welsh statute book – section 6**

A rigid definition of sustainable development could limit what organisations aim to achieve and could be used inflexibly within any audit or inspection regime. The current definition of sustainable development is broad and encompasses the relevant areas. However further guidance would probably be of use to help organisations interpret it for use within their own organisations. The suggested factors are also broad and the difficulty is in how this is applied in a meaningful way to decision making e.g. what would not be included by the suggested factors.

## **The preferred approach to the role and functions of a new independent sustainable development body – section 7**

We agree that the focus for the work of such a body should be about providing advice and guidance and ‘expert know-how’. The body should be there to encourage organisations and work with them in a constructive way – it should not be about creating unnecessary work for organisations but about adding value. The costs of such a body should be carefully appraised, and regular evaluation should be done to assess whether it is adding any value.

The scrutiny function is much more problematic and a potential minefield. If the function is to sit with the Auditor General for Wales, considerable thought will need to be given to what a sustainable development audit means in practice. Over-elaboration and excessive bureaucracy could have the opposite effect to the one intended, and auditors will need to be fully apprised of and sympathetic to a wider agenda than traditional audit.

We understand that work is under way within the Wales Audit Office to draw up a suitable approach, and would welcome an opportunity for further involvement in that work.

### **Further evidence for consideration**

The Corporate Resources Scrutiny Committee Members of the Vale of Glamorgan Council considered the document and took the view that since sustainability impacted upon every action undertaken by the Council, it should be mainstreamed within the organisation and not be an item that could or needed to be audited as a separate .

There was accordingly a discussion about whether it was appropriate to have two separate bodies both responsible for separate aspects of sustainability.

Discussion also ensued as to the inclusion of a heading entitled “Sustainability” in Council reports in order, in part, to raise its profile.

Members reiterated the need for the profile of sustainability to be enhanced not just within the Council but with external stakeholders.

Cllr Neil Moore  
Leader of the Vale of Glamorgan Council





**Your Ref/Eich Cyf:**

**Our Ref/Ein Cyf:**

**Date/Dyddiad:**

**Tel/Ffôn:**

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Dear Sir/Madam

## **RE: Sustainable Development Bill Consultation**

Monmouthshire County Council welcomes the opportunity to comment on proposals for the Sustainable Development Bill. Overall, we are very supportive of the concept of the Sustainable Development Bill and are keen to do what we can to make sustainable development our central organising principle.

The following are our responses to the specific questions in the consultation:

### **Promoting sustainable development (section 3)**

*Q.1 What are the principal barriers you face to taking more long-term, joined-up decisions?*

Political cycles mean that it can be hard to get long term commitments. Although the Medium Term Financial Plan looks beyond an annual budget it still only lasts 4 years and has not benefited from a considered long term SD approach.

*Q.2 What actions need to be taken, and by who, to reduce or remove these barriers?*

Removing these barriers would require a radical change in the way of doing things to enable public bodies to truly plan for the future. This would have to impact on existing financial models and will require capacity building across the public sector. Financial incentives from Welsh Government, such as Outcome Agreements, could be used to incentivise long term sustainable decision making.

### **Evidence in relation to sustainable development (section 4)**

*Q.3 What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?*

One Wales, One Planet, adopted in 2009, sets out Welsh Government's commitment to making sustainable development its Central Organising Principle.

Evidence of how WG have done this, tools they have used, what has worked and what hasn't would be very useful to gauge progress and help other public bodies.

Other evidence could come from sustainable development indicators, SD Charter signatories, the Bruce Cockrean survey recently carried out for WLGA or Alan Netherwood's study on Rio+20.

## **A new sustainable development duty (section 6) The level of decision making to which the duty applies**

*Q.4 Have we identified the most appropriate level of organisational decision-making at which the duty should be applied? Please explain.*

Ideally every decision being made by any public body responsible for spending public money should be covered by the duty. However, the practicality and logistics of doing this would make it impossible to manage. Therefore, we agree that the duty should apply to those suggested i.e. longer term strategies, annual plans and general or subject-specific policies that govern service delivery or use public money.

In practical terms, for a local authority this could include: Single Integrated Plan, Local Development Plan, Procurement strategy, Financial Plans, Corporate Plan, Service Improvement Plans and so on.

To be effective, and to ensure that the duty doesn't just become a "tick box exercise" will require new and different ways of thinking and working. It is very important that members and senior managers are well equipped and trained to understand what the duty means and how to implement it. Sustainable development needs to be built in at the earliest stages of project planning and development, rather than as an add-on extra at the end.

*Q.7 Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?*

Yes, we believe the duty should also apply to internal operations if we are to fully integrate SD into our structures, policies and practices. As an organisation we should be practicing what we preach and SD should be incorporated into all our internal decisions.

*Q.8 Should budget proposals be subject to the duty? Please explain.*

Yes, since our budget dictates what our priorities are/will be. We need to be "putting our money where our mouth is"!

## **The behaviours approach**

*Q.9 Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.*

All of the behaviours listed are good practice, and form part of sustainable development thinking, in particular the long term thinking, integration and engagement and involvement. However, they do not in themselves “make” sustainable development. It is possible to integrate all of these behaviours in a fundamentally unsustainable project.

*Q.11 What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?*

As stated above, whilst being good practice, these behaviours do not necessarily result in sustainable decisions.

*Q.12 How much influence should sustainable development behaviours have over high level decisions – for example, should those decisions be lawful if they have been reached in a way that:*

- *is consistent with one, some or all of the behaviours;*
- *broadly reflects the behaviours;*
- *is not inconsistent with the behaviours?*
- *are there other options?*

If these behaviours are taken as how to measure whether SD has been taken as a COP (this is not the approach we would favour), then decisions should be consistent with some if not all of the behaviours.

### **The objectives approach**

*Q.13 Are there core sustainable development objectives we have not identified above?*

On the whole, all the sustainable development objectives are there, with the possible exception of something on global impact, think globally, act locally etc.

*Q.14 What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?*

The SD Objectives (like the behaviours) don't in themselves make for a sustainable decision. When we have introduced a Sustainable Development Impact paragraph on committee reports, with an SD checklist to back it up and give people a tool to help them, it quickly becomes a tick box exercise. Although tools are a help, for the duty to be effective there needs to be a change in mindset across public sector organisations.

The Objectives are better than the behaviours, because they do add up to a vision of what a sustainable community should look like. However, on their own they are very woolly and open to interpretation. In reality most councils have probably got most of these objectives already written in to their plans and vision documents, but that does not necessarily mean that their decisions are sustainable.

*Q.15 How much influence should the objectives have over high level decisions – for example, should those decisions be lawful:*

- *only if they actively contribute to one or more of those objectives;*
- *if they do not detract from any of the objectives;*
- *even if they detract from some of those objectives, as long as they actively promote others?*
- *are there other options?*

Ideally decisions should contribute to one or more of the objectives, but in reality most decisions are a balancing act, and it is likely that some objectives will be promoted, whilst others are negatively impacted.

### **The combined approach**

*Q.16 What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?*

Although more work and more onerous, basing the duty on both SD behaviours and objectives is essential because it will ultimately result in more robust and rigorous decisions. Rather than being seen as an additional burden at a financially stretched time, it needs to be understood that having SD as COP also makes financial sense and can increase an organisation's long term financial sustainability.

### **A single sustainable development proposition**

*Q.17 What are your views on basing a duty around a single sustainable development proposition?*

It is our view that this approach is far too “waffly” and open to interpretation. You could use a general statement like this to justify any decision, sustainable or unsustainable.

### **The time organisations may need to comply**

*Q.18 How much time should organisations be given to make these changes?*

We would suggest 2 years, with a progress report required after 1 year.

### **The provision of guidance**

*Q. 19 Would it be helpful to issue formal guidance to organisations subject to the new duty?*

Providing formal guidance is essential to ensure that public bodies are clear about what is expected of them, and to ensure consistency between organisations. In reality, no single method or tool will ensure that SD becomes the COP, so a suite of tools and methods for public bodies to use would be helpful.

*Q. 20 Should any such guidance be issued by the Welsh Government or the new sustainable development body?*

Guidance should be issued by the Welsh Government, with the sustainable development body offering advice and support to help the public bodies to meet the guidance.

## **Reporting**

*Q.23 Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?*

There definitely needs to be some kind of reporting and accountability. Doing this through existing arrangements would make sense, but it is important that existing formats are appropriate. To ensure the appropriateness of the reporting mechanism we suggest that all local authorities should be required to use the same methodology. We would also like some clarity on where responsibility for reporting would lie.

## **The organisations that might be subject to the duty**

*Q.24 Are there organisations on this list that should not be subject to the duty? Please explain.*

It is our feeling that Town and Community Councils are too small and do not have the capacity to comply with the act.

*Q.25 Are there organisations that are not listed above but which should be subject to the duty? Please explain.*

We think that Local Service Boards, the Police and Utilities companies should also be subject to the duty.

## **Defining sustainable development**

*Q.26 Are there other advantages or disadvantages to defining “sustainable development” and if so, what are they?*

Clarity over the definition of sustainable development is important to ensure that everyone is working to the same understanding, and to stop people dodging out of the legislation by having different definitions. However, as suggested, this may cause difficulties should definitions change over time. Our feeling is that the Bill should not be delayed by wrangling over definitions of what SD is.

*Q.27 If we were to define “sustainable development” do you think that the working definition above would be suitable and why?*

This definition is satisfactory.

## **An independent sustainable development body (section**

### **The preferred approach for the new body**

*Q.29 Do you have any views on the preferred approach regarding the main functions of a new body?*

We believe that the best approach for the new SD body would be to offer advice, guidance and support, to help public bodies effectively make SD their COP.

Scrutinising and enforcing the duty is essential and we agree with the suggestion that this should be carried out by the Auditor General for Wales. Having this external scrutiny and monitoring is an effective way of ensuring that public bodies do deliver their commitments. However, it is vital that staff at the Wales Audit Office are adequately trained in sustainable development in order for them to do this effectively.

### **Proposed functions for the new body**

*Q.31 Do you agree with the proposed functions for a new body established on a statutory basis?*

Yes. This will ensure that commitments made are long term and binding, and will ensure that effective monitoring and enforcement of the SD Bill is continued in the long term.

*Q. 32 Are there other functions which should be considered?*

We agree with all the additional suggested functions. In particular, reviewing WG's SD Indicators will be useful and could help guide indicators gathered by other public bodies. A set of SD indicators to be used by all public bodies, that relate not just to service delivery but also broader sustainability and quality of life within the county as a whole, would be useful and would help to give consistency and comparability. The body could also have a valuable role in making recommendations to WG and others about removing particular barriers to SD.

We hope that these comments will be useful and we look forward to seeing the White Paper.

Yours faithfully

Hazel Clatworthy  
Sustainability Community Officer  
On behalf of the Sustainability Team



ACCA Cymru/Wales  
PO Box 2520  
Cardiff  
CF23 0GN

Sustainable Development Bill Team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

18th July 2012

Dear Sir/Madam

I am writing in response to the Welsh Government's consultation document on proposals for the Sustainable Development Bill.

### **About ACCA**

ACCA (the Association of Chartered Certified Accountants) is the global body for professional accountants. We aim to offer business-relevant, first-choice qualifications to people of application, ability and ambition around the world who seek a rewarding career in accountancy, finance and management.

We support our 154,000 members and 432,000 students in 170 countries, helping them to develop successful careers in accounting and business, with the skills needed by employers. We work through a network of 83 offices and centres and more than 8,500 Approved Employers worldwide, who provide high standards of employee learning and development.

ACCA works in the public interest, assuring that its members are appropriately regulated for the work they carry out and, promoting principles-based approaches to regulation. We actively seek to enhance the public value of accounting in society through international research and we take a progressive stance on global issues to ensure accountancy as a profession continues to grow in reputation and influence.

From our office in Cardiff, the ACCA Cymru/Wales team supports more than 4300 members and students across the sectors in Wales including Regional Members networks in south Wales, north Wales and Swansea and west Wales.

### **Background**

ACCA has promoted greater transparency in the reporting of organisations' social and environmental impacts since 1991 and it continues to lie at the heart of our approach to the development of the profession. Globally, ACCA is a

partner of the International Integrated Reporting Committee and The Prince of Wales Accounting for Sustainability Project and recently participated in the international debate surrounding integrated reporting and sustainability at the Rio+20 summit.

In Wales, in addition to its own sustainability activity including the collaboration with BRASS on the *ABC of CSR for Small and Medium Businesses*<sup>1</sup> online tool, ACCA has led the formation of the Accounting for Sustainability Wales Forum. This is an umbrella group of comprising the major accountancy bodies operating in Wales which is tasked to foster a debate about sustainability and the accountancy profession's impact on that activity. It also acts as a line of communication to the wider world of business and public sector on these issues. A4SW is part of the Prince's Accounting for Sustainability Project.

### **The Sustainable Development Bill**

ACCA Cymru/Wales very much welcomes the opportunity to respond to the Welsh Government's consultation on the SD Bill for Wales. We commend the Welsh Government for the extensive process of consultation which has been enacted to support this conversation and likewise, commend the work of the Commissioner for Sustainable Futures for his engagement with the accountancy profession in this process.

We urge the Welsh Government to recognise and harness the role of the accountancy profession in integrating SD in public sector operation. ACCA accountants act as trusted advisers both inside and outside a range of organisations and the accountancy function is also key to the measurability of the success of actions to promote SD and will therefore be key to subsequently helping to assess the impact of the Bill and its duties.

We recognise this as a key opportunity for the Welsh Government to draft legislation which builds on the desire for SD to be the core organising principle for public services in Wales and feel that the Bill must therefore be decisive and authoritative in its ambition and reach while recognising some of the organisational and cultural challenges surrounding this.

Despite the current pressures placed on the public sector in Wales, we feel that it is *because* of such pressures not *despite* these pressures that it is right to develop this conversation. At a time when public services are looking at their structure and operational effectiveness, the consideration of the opportunity to embed SD should be paramount.

While recognising the pre-existing SD imperative as detailed within the 2006 Government of Wales Act, we agree that there is a case for strengthening the approach to SD and we recognise also the influence of the public sector in other areas such as the private and third sectors.

The legal definition of sustainable development is key to the authority, success and understanding of this Bill. Whereas ACCA has no view as to what this definition should be, the resultant definition needs to be clear enough so as to guide public sector organisations and leave them in no doubt as to their duty. This in turn will guide the accountancy profession in the understanding of its role and similarly, any reporting framework which may follow.

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<sup>1</sup> <http://www.brass.cf.ac.uk/abc/>



Whereas the drive should be towards the integration of sustainable behaviours, we believe that the sustainable development duty should be applied to higher level decisions within organisations with the presumption and expectation that these will influence decisions at a lower level.

With regard to the issue of time for compliance, we feel that compliance should initially be fostered through encouragement and guidance and in the first year at least, organisations should not be subject to penalty for non-compliance. We support the view the new SD Body will have a crucial role in this guidance towards compliance.

However, if a reporting framework is to be adopted, the processes for determining and gathering the necessary information will need to be discussed and developed immediately following the enacting of the Bill to allow organisations to develop a robust reporting framework for use in subsequent years.

Given that some public agencies in Wales including Welsh Government-sponsored bodies such as NHS Wales have already committed to environmental reporting frameworks such as that under the FReM for example, the long-term position on the issue of reporting needs to be established and clarified as soon as possible.

From ACCA's perspective, the issue of reporting is key to the on-going success of the SD Bill and the wider agenda. Given the extent and breadth of the consultation, we are disappointed that this does not figure more prominently within the consultation. However, we do welcome the Welsh Government's expression of its preference for SD to be embedded within reporting.

The SD Duty under the 2006 Government of Wales Act and the 1998 Act which preceded it has been used on numerous occasions to demonstrate the commitment of the Welsh Government on sustainable development and has featured in speeches by Welsh Ministers around the world.

The development of the SD Bill represents an opportunity to clarify and further that commitment as well as lead the way through the adoption of a sustainability reporting framework for the public sector in Wales.

One outcome of the recent Rio +20 summit was the following statement:

*'We acknowledge the importance of corporate sustainability reporting and encourage companies, where appropriate, especially publicly listed and large companies, to consider integrating sustainability information into their reporting cycle'*<sup>2</sup>

Although this statement falls short of ACCA's preferred global agreement for an approach to reporting material of environmental, social and governance issues, we believe this is a positive lead and furthermore, ACCA Cymru/Wales believes that this should be a motivating factor for an explicit commitment to reporting by the Welsh Government within the Bill.

The development of a reporting framework which integrates SD would not only serve to embed SD behaviours but would also serve as a gauge for accountability and a leadership imperative within organisations.

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<sup>2</sup> <http://www.accaglobal.com/en/discover/news/2012/06/announcement-rio.html>

While we recognise the danger of making compliance more onerous than necessary, a single approach for the clear representation of data and information regarding SD serves to provide a framework for more effective public assurance and could also be seen as a motivator for private and third sector organisations across Wales.

We are in no doubt that the adoption of an appropriate reporting framework for the public sector in Wales will represent a significant organisational challenge and a professional challenge to individuals including the accountancy profession.

However, ACCA is willing to act to support this change by lending its own expertise and leveraging our international relationships as well as seeking to further develop our own membership within the public sector to this end.

We welcome the proposal for the new statutory Sustainable Development Body. We feel that such a body is central to the oversight and guidance of the development of the Bill and the duties under it.

It is important that such a body has teeth enough to act in a regulatory capacity while also fostering an approach which seeks to consult and guide organisations and is seen as an arms-length point of authority on SD. We would cite the role of the Health and Safety Executive as an example of such a relationship.

We feel that it would be the role of such a body to act to issue guidance on the approach to SD and the on-going compliance under an SD duty.

We recognise the danger of the new body being seen as a bureaucratic structure. However, given the wide remit of the Bill and its aspirations, such a body needs to exist not only to inform the functions above but also act as an international advocate for Wales' approach to SD and a link to a range of other organisations and sectors including the accountancy profession.

The body should also be tasked in such a way as to scrutinise the Welsh Government's own compliance with the SD duty through the annual reporting process.

We also feel that the role of the new Auditor General for Wales will be important to the success of the SD duty.

Were an identified reporting framework to be adopted, the proper audit of such reporting will be important to provide the necessary assurance. In conjunction with the new SD Body, this would create a framework for the transparency, benchmarking and scrutiny which is needed.

We agree that the involvement of the AGW signals to organisational leaders in Wales the importance of SD and compliance with the Duty.

### **Reach of the Bill**

While we recognise that the Bill is aimed primarily at the public sector in Wales, as the document recognises the lines between public sector, third and private sectors are often blurred in terms of service delivery.

The Bill needs to give clarity to any expectation of duty for organisations not within the public sector but which may be delivering services. The Welsh Government should also recognise that where this duty applies to such organisations, this might potentially be seen as a burden.

If it is anticipated that any duty should apply to those organisations entering into supply contracts with the public sector through the procurement process for example, the Government should adopt a single process for compliance across all public sector organisations. Demonstrating and developing an approach to SD should be seen as a competitive opportunity rather than a burden.

However, we recognise that this may well be considered at a later date and we are happy to discuss this further

Certainly, the public sector can act as a motivator of behavioural change within the private sector and this should not be lost in the consideration on the Bill.

It is difficult to separate the environmental, social and material impacts of public sector operations and services from those of the private sector. This being the case, in association with other on-going debates and support around sustainable development, the Bill represents a framework for a more in-depth conversation with private sector organisations on achieving the aims of sustainable development.

I am more than happy to meet to further discuss the points contained within this response and ACCA Cymru/Wales looks forward to supporting if required, the implementation of the SD Bill for Wales.

Yours Sincerely



Ben Cottam  
Head of ACCA Cymru/Wales

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To  
SD Bill Team, Welsh Govt,  
Cathays Park, Cardiff CF10 3NQ

17/7/2012

Dear sirs,

**Sustainable Development Bill**

The following is my submission on this consultation.

Vic Warren, C Eng, C. Env

**SUSTAINABLE DEVELOPMENT BILL CONSULTATION COMMENTS**

**General**

SD should be based on Brundtland's brilliantly concise definition, and this is indeed set out in 2.9. In my view some of this consultation document thereafter diverges into other extraneous areas; the Brundtland definition should be the measure of anything proposed – does the proposal comply with Brundtland?

There appears to be such digressions through the first sections of this document, but realism kicks in from Section 6. I am thinking of 2.13, the five bullets there. Elkington's 'triple bottom line' - social, economic and environmental goals, which are indeed the first three bullets in 2.13. is generally accepted as the logical progression to realising Brundtland. SD should not be expanded to sustainable resource use and wellbeing, I would suggest that resource use is inherent within the TBL; wellbeing, certainly a worthy aim, is either similarly inherent or deserves a separate WG policy strand (or both), but its inclusion as an additional separate SD aim is just confusing and extending the issue. If we are to get anywhere with SD we must keep focussed on the TBL.

The paragraphs 2.14 - 2.19 are therefore, in my view, superfluous and inappropriate in this document, and the Social Services example given is just irrelevant.

Another ineffective section is 3.41. This '4 Es' is a badly chosen gimmick; the E word explanations are forced and worthless in working towards Brundtland. In S6 the document does focus again on a realistic roadmap, and the 4 Es seem to be forgotten; why include them at all? If there must be such gimmicks, I would suggest DDPP – Duty / Definition / Process / Penalty – would encapsulate the essential management.

## Questions – my comments: -

1. There are many barriers, some of the main difficulties I have seen in long parallel careers in public service and the voluntary sector are: -

Short-termism – elections / annual budgets / careerists moving on / “I’ll be gone before there are real problems”

Silo mentality – not our responsibility, try the next silo

Conflict on what sustainable development actually means and how to attain it – there are substantial differences and points to argue, eg is Energy from Waste a step on the road, or wasting resources? Are wind turbines a must, or a subsidised waste of resources?

SD must be defined for each main element, every time checked against Brundtland. And things will change, the process will evolve. I agree this is a journey, not task & finish

2. Actions needed are: -

- SD for particular areas must be defined by specialists and spread to all public bodies and providers (ie – biodiversity SD must be defined by CCW, that is the only body that can legitimately do so; modernisation and benefits of public IT has to be by an IT specialist; and so on)

Duties set out clearly and realistically - Brundtland interpreted in main subject areas and then processes applied – and as above, these will change. But if there are not clear, hardline duties with fairly detailed strong COPs for each, and targets, and real sanctions or penalties for not achieving, then we might as well give up now. The only reason that Welsh LA’s recycling percentages shot up impressively over a few years was because of the threat of real financial penalties.

A SD culture being required in all public bodies and providers as health and safety now is – SD specialist officers crosscutting all sections, advising and scrutinising, and reporting to WG

An independent WG body as HSE to audit and hold bodies to account

3. The evidence I would point to is

The failure to achieve the biodiversity targets

Whereas LA recycling (referred to above) is a success.

The current LDP process I would contend is also patchy at best, and when we see the arguments between WG and the LA in Cardiff (42% increase in population by 2033 - WG target? Is that sustainable or even realistic?) it appears to me that WG has a peculiar view of SD.

4. It is obvious to me that uncompromising duties have to be imposed on all public bodies, but these must be backed up by process roadmaps and COPs, sanctions and penalties
- 5 & 6 This may occur but it seems to me that there will have to be flexibility and frequent assessments to check whether we are making progress, and whether some subject areas should be outside SD duties (very doubtful in my view) or others should be brought in. This is for the future, and much of it may come out during the White Paper > Bill > Act process. Too early at this stage.
7. All relevant operations should be taken into account, certainly internal operations, and certainly estate management – it would be ridiculous for a public body to have a public face complying with SD policy whilst managing its energy use, for example, in a wasteful manner

8. Budgets – will have to be incorporated in some way – part of a duty will have to be to ensure funding is available to comply with the duty - or nothing will happen.
9. Probably, although I am not convinced the list in 6.90, if that is what you are talking about, is exhaustive or entirely relevant. Check Brundtland – is integration, working across boundaries essential to get to SD? And cost savings and efficiencies - worthy aims, but essential for SD? Probably not
10. Public service is riven with inappropriate behaviours and conduct, that is apparent on the news daily, and to anyone who has worked in it. Greed, arrogance, empire building, career building, blame culture ..... or just bad management. The code of public conduct (or whatever it is called) is relevant. I do not think anyone with experience of large organisations would think for a moment that the behaviour approach would work.
11. No advantage. Forget it
12. What has this got to do with establishing a process towards SD? We seem to have slipped into a debate on management theory
13. Objectives or factors? You use terms very loosely, and these two could be quite different. If you are referring to the list in 6.93, I would draw up a totally different list, relating to SD strands such as eco-services, waste management, energy ..... Some of the list given are appropriate, in my view, certainly 'healthy, functioning ecosystems' and of course the Brundtland 'interests of future generations', but some are pretty irrelevant. I have already said I am not convinced on 'wellbeing', but if it is to be included then 'healthy living' is surely the same. The last bullet is worthy again, but is it essential for SD, or should it be seen as a separate aspect of a civilised society? Social justice and equality also - diverging from SD. Where are crucial considerations of CO2 / energy use / resources?
14. This is essential, without this approach it is a waste of time
15. Yes – first bullet
16. No objection to influencing behaviour / institutional culture, but there has to be underlying duty / responsibility / objectives / legal sanctions
17. Not clear what this means – would there be SD propositions in various areas of SD? Duties and legal objectives are essential, in any case
18. Different periods in different areas of SD – lengthy
19. Yes – COP approach essential
20. Too early to say, but WG must have democratic superiority
- 21 & 22 – Too complex to answer at this stage
23. Yes, of course
24. No

25. Given outsourcing of many major public services, the list must be much wider, providers must be included – for example public housing associations, but also consultants and contractors
26. & 27. My view is that SD has to be defined – Brundtland would suffice. The attempt to redefine this in 6.127 is confused.
28. It appears obvious that the main purpose of a SD oversight body must be to ensure that all public bodies and providers comply with national and specific SD duties. In my view it should also have subsidiary duties to guide the SD process, deal with conflicts between public bodies and generate COP and advice generally. The model is surely the Health & Safety Executive.
29. I strongly disagree that the AGW should have the compliance role. It would need to establish an in-house capability on SD similar to the SD body – duplication. The dual responsibilities will become confused, probably unworkable.
30. No, except additional bureaucracy, which in my view is undesirable but unavoidable
31. The bulleted functions are all necessary and well-described, but as stated previously my view is that the body should also be the regulator for the SD duty. A split responsibility for implementing SD will not work. I do not understand the repeated use of the word ‘wellbeing’, in this section usually in place of ‘SD’. Wellbeing is a useful word in health-related issues, but in my view it is being mis-used throughout this document. Focus on SD, not a wider / different ‘wellbeing’ agenda.
32. The body will have to deal with arguments and conflicts about what is SD and what processes towards SD are acceptable or non-acceptable. (This may be what is meant by 7.168)
33. The body should be independent and modelled on HSE
34. No particular views

.....

Summarising my view of this consultation, I feel it is not sufficiently focussed on SD alone, it strays more widely and confuses SD with issues that are not mainstream SD. It uses terminology that is confusing. There is insufficient consideration of the environment – tied up with the constant reference to ‘wellbeing’ of humanity. This indicates a tendency to ignore indirect but essential contributions and problems for our survival (eco-services; climate change; local food etc).

Nevertheless, it is very welcome as an initial step towards Wales assisting with the global effort towards the long-term survival of the planet, turning around the current degeneration. I hope that the process to a White Paper and Bill will sharpen and re-focus the end product.

VW7/12

Ymddiriedolaeth Cadwraeth Ystlumod (Cymru)  
Bat Conservation Trust (Wales)



SD Bill Team  
Welsh Government  
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16 July 2012

**Proposals for a Sustainable Development Bill – response by the Bat Conservation Trust**

Thank you for the opportunity to comment on the above consultation. Our response can be made available to the public.

The Bat Conservation Trust (BCT) is the only organisation in the UK concerned solely with the conservation of bats. We have a membership approaching 5,000 and our work is supported by government agencies, professional and volunteer bat workers, and we work closely with nearly 100 bat groups throughout the UK. In considering this consultation paper, BCT has invited comments from the bat groups in Wales.

We very much welcome John Griffiths AM, Minister for Environment statement in his Ministerial Foreword to this consultation paper when he said ***“We recognise that our environment has an intrinsic value, is our life support system and is central to our quality of life, sense of place, health and well being”*** This we consider to be central to sustainable development.

**Summary of responses**

This consultation and the subsequent Sustainable Development Bill offers a unique and critical opportunity for the Welsh Government to adopt and pioneer a truly holistic approach across the full range of its work, and to reversing the decisions that have historically lead to unsustainable practices and which have and continue to have, negative impacts on the environment and therefore to the people and economy of Wales. It will be important for there to be cross party support and agreement on the legislation so that irrespective of views on a specific strategy for implementation, future governments will continue to champion sustainable development and the goal of a sustainable Wales. The links between this consultation paper and other recent consultations from the Welsh Government, notably Living Wales, Single Body and Presumption in Favour of Sustainable Development, presents the most significant and important opportunity for the Welsh Government to make lasting and crucial changes for the way we live in Wales.



It is our view that there will be a requirement for statutory guidance which will need to explain the reasons why we need to live and develop sustainably. This will help people who are involved in decision making processes to understand the consequences of continuing to endorse unsustainable decisions and to achieve the cultural shift and change in behaviour that is needed, and for those who are affected by those decisions to understand the need for sustainable development.

BCT is uncertain whether and how, this duty can be extended to all public bodies but we are clear that the obligations must extend to all relevant levels and not be confined only to high level policy. If the Welsh Government is as serious and committed to delivering a One Wales One Planet as BCT believes the Welsh Government is, then Sustainable Development must not be over-ridden or watered down for short-term ideas and high level decisions. We need to change behaviours and thinking. We would support a legal duty but the duty must be substantially stronger than the current wording and it needs to go beyond simply producing a scheme, or having regard for, or furthering Sustainable Development. It must make an unambiguous and clear obligation for decisions to deliver Sustainable Development. We do though recognise that it will not be straightforward to find a form of words that will make clear, what is required and what would be unlawful.

The Duty should also recognise and give regard to the international impacts of actions and decisions taken in Wales. It should ensure that the environments, economies and people in other countries are considered and not detrimentally affected as part of the goal of achieving a One Wales One Planet.

We believe that there will be a need for proper advice and scrutiny and that the relationships between the Auditor General, Public Services Ombudsman, the SD Commissioner and possibly the Natural Resources Body for Wales will need to be carefully defined and integrated if sustainable development approaches are to be properly adopted by public bodies.

### **Defining SD**

It is our firm view that properly defining Sustainable Development is central to delivering a sustainable Wales.

Sustainable Development is about the way we, that is society, lives and behaves (in a fair and equitable way) to enable society to grow and develop in a way that does not abuse and/or deplete its natural resources (land/water and air) and therefore we very much welcome the concept of living within environmental limits. It is not based on nature conservation *per se* but it is based on the use of our natural resources which of course impacts either directly or indirectly on nature conservation – nature conservation parameters can be used as an indicator of that resource use.

There are already many definitions and interpretations of what Sustainable Development means. We do believe that the Welsh Government's understanding of Sustainable Development in introducing wellbeing is unnecessarily over-complicating the issue. We also accept and agree that we need shared and common values without which, we are fighting with just technological solutions which is one of the reasons why we are failing to achieve Sustainable Development. Whilst opening up the definition to an all encompassing ideology by introducing the concept of personal and

societal wellbeing, and therefore shared values, is a worthy and desired outcome and one that accords with BCT's Vision of a world where people and bats live in harmony, it is not germane to delivering Sustainable Development. Wellbeing is a subjective and social construct that is difficult to scientifically measure and rigorously quantify and leads to additional competing factors in delivering sustainability. A more useful definition is given in Wikipedia which says "*...a pattern of economic growth in which resource use aims to meet human needs whilst preserving the environment*". Such a definition would fit very closely with the thinking set out in Living Wales.

### **Detailed responses**

BCT does not propose to answer all the questions that have been posed but we will concentrate on those that we feel are the most important.

#### **Question 4 Have we identified the most appropriate level of organisational decision making at which the duty should be applied?**

No. You are proposing to limit this to high level policy but experience has shown, especially in day to day local authority decisions, that some decisions are taken without due diligence to environmental issues despite local authority policy and/or legal requirements. Whilst it is easy to sign off high level policy as complying with environmental demands, it is at the implementation level where such issues can be over-looked eg land-use planning and estate management. By requiring compliance with Sustainable Development at implementation level and being required to demonstrate such compliance, the effect will be to rapidly imbue the organisation with appropriate patterns of behaviour.

#### **Question 7 Should we include decisions which govern an organisation's internal operations? If so which internal operations should we include?**

Yes. We need strong governance to deliver sustainable development and this should reach to all operations, the impact of which may conflict with the principles of Sustainable Development. For example, procurement, estate management.

#### **Question 8. Should budget proposals be subject to the duty?**

Yes. Budgets will relate directly to projects and therefore whether such projects deliver or go against the principles of Sustainable Development.

#### **Question 12. How much influence should sustainable development behaviours have over high level decisions...?**

If Sustainable Development is going to be the central organising principle, then Sustainable Development cannot be delivered if decisions are going to be based on a permutation or Pick and Mix of behaviours. If the Welsh Government wishes to have a truly sustainable Wales as described in One Wales One Planet then all relevant behaviours must change and therefore behaviours must dictate high level decisions.

**Question 15. How much influence should sustainable development objectives have over high level decisions...?**

As above, Sustainable Development cannot be considered to be delivered if high level objectives decisions are going to over rule the principles of Sustainable Development. Historically, the environment has tended to take second place to local economic and social priorities either when any impact has been considered as either not environmentally significant or other economic and social factors deemed to be of greater importance. Indeed, it could be strongly argued that there should be a presumption against decisions the outcome of which does not respect all five principles as set out in the UK Sustainable Development strategy.

**Question 16. What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?**

The main advantage is that there will be a direct link between behaviours and the objectives and that these will be seen by those responsible for delivering sustainable development. It should be possible to identify where objectives are not being met and to take appropriate measures to rectify the problem. Over a period of time, it should be that behaviours become second nature and it will only be necessary to measure outcomes.

**Question 17. What are your views on basing a duty around a single sustainable development proposition?**

BCT does not consider that such a single proposition is helpful to delivering sustainable development. We have already said that it is our firm view that properly defining Sustainable Development is central to delivering a sustainable Wales and that there should be no room for ambiguity or interpretation or legal challenge.

**Question 17. How much time should organisations be given to make these changes?**

BCT is uncertain whether and how, this duty can be extended to all public bodies but we are clear that the obligations must extend to all relevant levels and not be confined only to high level policy. Should the Welsh Government decide to extend the duty to all public bodies then a phased approach may be the right option – we already know that a number of local authorities still have not produced Unitary Development Plans despite a requirement to do so. There may be a need for training and guidance to be provided and this will undoubtedly take some time to roll out. However, it may be possible to introduce fairly quickly some basic levels of Sustainable Development principles that could be quickly incorporated into day to day working.

**Question 19. Would it be helpful to issue formal guidance to organisations subject to the new duty?**

Yes. We believe that it will be essential to do so as understanding Sustainable Development is not straightforward.

**Question 20. Should any such guidance be issued by the Welsh Government or the new sustainable development body?**

Either. We would hope that guidance would be developed in consultation with relevant organisations.

**Question 21. Are there any particular statutory duties which it would be appropriate to repealed....**

It is our view that no existing duties should be repealed until the new duty has been firmly embedded and demonstrated to be working especially where those duties are in support of international and EU obligations. At that point, duties could be reviewed but this should be made the subject of further consultation.

**Question 23. Should organisations be required to report back on compliance with the duty through their existing organisational arrangements?**

BCT does not have knowledge of what arrangements are in place. However, mechanisms needs to be in place for the Welsh Government, and society, to have confidence that the duty is being delivered.

**Question 24. Are there organisations on this list that should not be subject to the duty?**

If the Welsh Government is minded to extend the duty to public bodies, then the duty should be applied to any public body delivering a public service. The Duty should also recognise and give regard to the international impacts of actions and decisions taken in Wales. It should ensure that the environments, economies and people in other countries are considered and not detrimentally affected as part of the goal of achieving a One Wales One Planet.

**Question 25. Are there organisations that are not listed but which should be subject to the duty?**

If the Welsh Government is minded to extend the duty to public bodies, then the duty should be applied to any public body delivering a public service. The Duty should also recognise and give regard to the international impacts of actions and decisions taken in Wales. It should ensure that the environments, economies and people in other countries are considered and not detrimentally affected as part of the goal of achieving a One Wales One Planet.

**Question 26. Are there advantages or disadvantages to defining sustainable development and if so, what are they?**

There are clear advantages to defining sustainable development. A clear unambiguous definition that is not open to interpretation will openly demonstrate what the Welsh Government requires to be delivered. BCT is undecided as to whether this should be included in the legislation or as separate guidance.

**Question 27. If we were to define sustainable development, do you think that the working definition would be suitable and why.**

There are already many definitions and interpretations of what Sustainable Development means. We do not believe that the Welsh Government's current working definition of sustainable definition is suitable.

Whilst opening up the definition to an all encompassing ideology by introducing the concept of personal and societal wellbeing is a worthy and desired outcome, and one that accords with BCT's Vision of a world where people and bats live in harmony, it is not germane to delivering Sustainable Development *per se*. Sustainable Development is about the way we, that is society, lives and behaves (in a fair and equitable way) to enable society to grow and develop in a way that does not abuse and/or deplete its natural resources (land/water and air) and therefore we very much

welcome the concept of living within environmental limits. It is not based on nature conservation *per se* but it is based on the use of our natural resources which of course impacts either directly or indirectly on nature conservation – nature conservation parameters can be used as an indicator of that resource use. Introducing wellbeing simply adds to the complexity - wellbeing is a subjective social construct that is difficult to scientifically measure and rigorously quantify and leads to additional competing factors in delivering sustainability. It is not based on nature conservation as such but it is based on the use of our natural resource which of course impacts either directly or indirectly on nature conservation – nature conservation can be used as an indicator of that resource use.

A more useful definition is given in Wikipedia which says “...a pattern of economic growth in which resource use aims to meet human needs whilst preserving the environment”. Such a definition would fit very closely with the thinking set out in Living Wales and the concept of living within environmental limits.

**Question 28. What should be the overall purpose for a new body?**

It is our view that the new body should primarily be for advice and support and provide recommendations where necessary, at least in the short term (5-10 years). As the phasing and adoption of sustainable development becomes more established across the public sector this role could move towards audit and enforcement and holding public bodies to account in an Ombudsman-like manner.

**Question 30. Are there significant disadvantages to establishing a new body on a statutory basis?**

BCT does not believe that there are any significant disadvantages to a new body having a statutory basis for its work. Providing adequate resourcing for the new body will be just as essential as establishing the appropriate powers. Both Commission and Commissioner need to be empowered by funding to achieve what they are tasked to do, and in a similar fashion to other Commissions, e.g. Welsh Language Commission.

**Question 31 Do you agree with the proposed functions for a new body established on a statutory basis?**

The functions for the new body must be in support of delivering Sustainable Development. As previously mentioned, we do not believe that the concept of well being should be a part of this process. Functions relating to wellbeing may well serve as a distraction.

**Question 33. Do you have particular views on the independence of a new body?**

Whilst the new body must be, and be seen to be, independent of political influence, the relationship between the Auditor General, the Public Services Ombudsman, the new body (SD Commissioner), and arguably the proposed Natural Resources Body for Wales is critical, and that Welsh Government should consider how these three positions can work together to ensure that sustainable development approaches are correctly adopted by public bodies.

The SD Commissioner will be responsible for safeguarding the interests of future generations by monitoring and analysing the functions of public bodies in response to sustainable development policy. In conjunction with this role the SD Commissioner will have the power to direct the Auditor General, where necessary, to undertake a review, and through this process public bodies may be

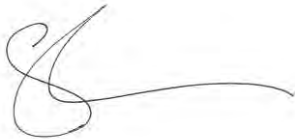
held to account. Finally, the Public Services Ombudsman will have the power to hold public bodies to account on behalf of the public and therefore needs to work in harmony with SD Commissioner and Auditor General to ensure the entire process is cohesive, has maximum impact and does not undermine itself.

**Conclusion**

In conclusion, BCT very much welcomes this opportunity to help shape the very future of Wales as a One Wales One Planet nation and there is much to be applauded in the Welsh Government's thinking. We look forward to working with the Welsh Government in the emerging Bill.

Please do not hesitate to contact me if you have any queries on these comments.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Steve Lucas', with a stylized initial 'S' and a long horizontal stroke extending to the right.

Steve Lucas

Swyddog Cymru / Wales Officer

Ymddiriedolaeth Cadwraeth Ystlumod (Cymru) / Bat Conservation Trust (Wales)

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18 July 2012

Dear SD Bill team,

**Response to consultation on *Proposals for a Sustainable Development Bill***

Thank you for the opportunity to comment on the Welsh Government's proposals for a Sustainable Development Bill.

I endorse the response to this consultation submitted by TENP, The Environment Network Pembrokeshire.

I am deeply concerned that the balance between the two elements of Sustainable Development is skewed too far toward development at the expense of genuine sustainability. Development expressed in terms of sustained (economic) growth is an oxymoron since nothing can grow indefinitely, and certainly not on a finite planet. The emphasis should instead be on the development of sustainability.

To emphasise this point I can do no better than to quote from the February 2012 UNEP Blue Planet prize synthesis paper "Environment and Development Challenges: The Imperative to Act" presented to the 12<sup>th</sup> UNEP Governing Council in the run-up to the Rio+20 meeting of the Convention on Biological Diversity<sup>1</sup>:

*"... civilization is faced with a perfect storm of problems driven by overpopulation, overconsumption by the rich, the use of environmentally malign technologies, and gross inequalities. .... These biophysical problems are interacting tightly with human governance systems, institutions, and civil societies that are now inadequate to deal with them.*

*The rapidly deteriorating biophysical situation ... is barely recognized by a global society infected by the irrational belief that physical economies can grow forever and disregarding the facts that the rich in developed and developing countries get richer and the poor are left behind. .... the perpetual growth myth is enthusiastically embraced by politicians and economists as an excuse to avoid tough decisions facing humanity. This myth promotes the impossible idea that indiscriminate economic growth is the cure for all*

*the world's problems, while it is actually (as currently practiced) the disease that is at the root cause of our unsustainable global practices."*

These are not the words of some extreme green lobby group but of twenty of the world's most respected scientists and economists, including Gro Harlem Brundtland (the Brundtland definition of sustainable development); James Hansen (Climate Scientist, Head of NASA Goddard Institute for Space Studies), Nick Stern (the Stern Report), Bob Watson (Defra Chief Scientific Advisor). The message is stark; it is imperative that society's response is equally unambiguous. Sadly, despite some fine words, the proposed Bill goes nowhere near far enough.

The aim to embed "sustainable development" as the central organising principle in both Welsh government and public bodies appears welcome at one level, but not if it accords development primacy above all else. This aim should rather be, unambiguously, to ensure that all development will be environmentally sustainable; *ie* that sustainability - *genuine* sustainability - should have primacy. The difference is not a matter of semantics or pedantry, it is significant. As Herman E Daly, emeritus World Bank Senior Economist and champion of sustainable development, puts it: "*The economy is a wholly owned subsidiary of the environment, not the reverse .... The economy is a subsystem of the finite biosphere that supports it*" (*Ecological economics and sustainable development*).

The issue of what "sustainable" actually means remains a critical issue despite protestations to the contrary and the availability of reasonably adequate definitions: in reality it is widely misunderstood and is commonly misused in a countless nonsensical ways, not least being translated into "sustainable growth". The ubiquitous and tolerated misinterpretation of "sustainable" in the context of SD is a means of giving development a cloak of green respectability despite inherent unsustainability.

Government must come to genuinely understand what is being faced, genuinely commit to putting the environment and true sustainability first, and set an robust example. There is good evidence to show that there is poor understanding of the critical importance of a robustly functioning and biologically diverse environment to society and that the commitment to economic business-as-usual remains strong and unrefined. I acknowledge that overcoming these failures and mind sets will be hugely difficult. Nevertheless, sustainability will only come with real and comprehensive understanding and buy-in at the top of government; government *must* effectively resist being driven by business self-interests.

It is worth bearing in mind the report from the Auditor General to the National Assembly "Sustainable development and business decision making in the Welsh Assembly Government" dated 21 January 2010 which notes that "Limitations in the Assembly Government's business processes have impaired their effectiveness in embedding sustainable development objectives and principles in business decision making" and "Sustainable development is seen as one of a number of competing priorities rather than the means by which the Assembly Government manages its competing priorities".

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<sup>1</sup> <http://www.af-info.or.jp/en/bpplaureates/index.html>



The report includes a clear message that simply saying the right things or even putting measures into place does not necessarily deliver, or drive the necessary cultural change to enable delivery. Such references in this report to ‘business as usual’ processes not having been “effectively challenged” and to “silo working” having been “reinforced”, coupled with quotes such as *“I have heard very little on sustainable development and ...there seems to be a policy of marginalising it. I have seen no evidence of any real sustainable development or that ministers and senior civil servants even know what it is ...”* indicate that there is a long way to go within the Welsh Government, that there is considerable inertia and resistance to change, and that a cautious reception and interpretation of the proposals for this Bill is more than justified.

Yours sincerely,

A handwritten signature in black ink, reading 'Blaise Bullimore'. The signature is written in a cursive style with a large, stylized 'B' at the beginning.

Blaise Bullimore

Response to consultation

Proposals for a Sustainable Development Bill

This response relates to consultation questions Q.26 and Q.27:

Are there other advantages or disadvantages to defining 'sustainable development' and, if so, what are they?

If we were to define 'sustainable development' do you think that the working definition would be suitable, and why?

1. The proposed definition of 'sustainable development' is intended to 'bring consistency and coherence to a growing body of sustainable development law in Wales and to the public sector's efforts to comply with it'. That objective is unlikely to be achieved, at least without extensive litigation and judicial interpretation, by a definition that is couched in aspirational rather than legally workable terms.
2. Paragraph 54 of the consultation paper refers to a 2006 review of statutory sustainable development duties prepared for Defra by Serena Cussons. That report referred to the 'symbolic' importance and legitimacy conferred by a statutory duty: 'raising the profile and awareness of sustainable development; formalising an organisation's contribution to sustainable development; as a driver for more rapid progress; promoting the consideration of more sustainable solutions; and as a driver for partnership working. All of those objectives are legitimate and important. However, it does not follow that a broad statutory definition of 'sustainable development' is the most appropriate or effective way to achieve them. Legislation is concerned with effect and enforceability, not with symbolism.
3. The proposed definition draws on the language of the Brundtland report. It seeks to encapsulate broad concepts of social and intergenerational justice, and explicitly defines sustainable development in Wales by reference to 'using only our fair share of the earth's resources'.
4. As elements of a statutory definition, 'achieving a better quality of life for our own and future generations' and 'fair share of the earth's resources' beg questions rather than providing coherence. They also raise fundamental questions concerning the standing of individuals or campaigning organisations to challenge decisions made by public bodies made subject to duties in relation to sustainable development that are governed by the proposed definition.
5. If legislation specifically requires a public body to make decisions in a way and on a basis that achieves a better quality of life for future generations, then it would be open to individuals or campaigning organisations to claim *locus standi* to challenge decisions on grounds relating to the evidential base used to evaluate the effect on future generations. At the very least, it is highly likely that the court would have to consider the validity of a

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claim by objectors to a scheme or development to be entitled to participate as advocates for the unborn.

6. Similarly, a public body's decision may be subject to challenge on the grounds that it cannot properly be regarded as the allocation of a 'fair share' of the earth's resources'. Legitimate questions in such proceedings would include:
  - a. the standing of governments and of non-governmental organisations representing or purporting to represent poor, undeveloped, vulnerable or developing economies to challenge developments on the grounds that historic developments and industry in Wales incurred a measurable share of the 'climate debt' referred to the UN Framework Convention on Climate Change at and after COP15 and to the related concept of 'ecological debt' discussed at COP17.
  - b. defining and measuring the 'fair share' attributable to Wales, including the question of whether past use of resource ought to be taken into account, or whether the concept ought to be restricted to current and proposed use of resources
  - c. whether a current development proposal might legitimately be opposed by those interested in potential future development proposals on the grounds that each development necessarily represents some use of resources, arguably increasing the burden on subsequent projects to demonstrate that the use of further resources remains 'fair'
7. The scope for such challenge may be inferred from arguments of the type run by the claimants in *Barbone v Secretary of State for Transport* [2009] EWHC 463 (admin). Objecting to expansion of Stansted airport, the claimants argued that there was a conflict between the government's policies on greenhouse gas reduction and an increase in aviation. The claimants argued: 'it is possible to have an evidence-based policy for air traffic expansion or for climate security, but not both'.
8. The judge in *Barbone* was able to dismiss that challenge, characterising it as an 'attack on national planning policy' which depended on 'the alleged global impact of that national planning policy, as exemplified by the evidence of a resident of Greenland'. Such arguments would be far less easy to dismiss if the statutory process in question had made explicit, and inherently global, reference to concepts such as a 'fair share of the earth's resources'.
9. The practical and evidential difficulties that arise when legislation seeks to set a policy agenda rather than a legally actionable mechanism may be illustrated by the duties in relation to climate change imposed by Greater London Authority Act 2007. Inserting a new s 361A into the GLA Act 1999, the 2007 Act defined 'climate change' as 'changes in climate which are, or which might reasonably be thought to be, the result of human activity, altering the composition of the global atmosphere *and which are in addition to natural climate variability*'.

10. This definition was a major victory for lobbyists, securing legislative recognition of anthropogenic climate change. However, for legal purposes it is vague and open to challenge. It requires identification of specific climate changes in climate and proof that they are in addition to natural variability. The duty to adapt to climate change relates only to that additional anthropogenic element. Establishing causation would be a major challenge for anyone seeking to uphold or to challenge a decision based on that duty.
11. If the proposed definition of 'sustainable development' were to be adopted and given legislative force, we would strongly recommend that any legislation into which it is incorporated should expressly address and delineate the scope for challenge to decisions made by public bodies in accordance with duties governed by the definition. In particular, consider whether the right to challenge should be subject to any specific limitations on *locus* or made subject to specific statutory guidance on the admissibility of evidence and the factors that may be taken into account when evaluating issues such as a 'fair share' or a 'better quality of life for... future generations.

Notes:

This response is submitted by Gwentian Consulting Limited. It draws on the legal and environmental experience of its principal, Malcolm Dowden.

Qualified as a solicitor in 1994, Malcolm Dowden has extensive experience both of transactional advice and of legislative drafting and interpretation. His areas of specific expertise include the law relating to energy performance and sustainable development in the UK real estate sector.

Page used to send this email: /consultations/forms/sdbillresponse/

Responses to consultations may be made public - on the internet or in a report. If you would (Unchecked) prefer your response to be kept confidential, please tick here:

Your name: Dr. Einir Young

Organisation (if applicable): Bangor University

Email Address: e.m.young@bangor.ac.uk

Address: Sefydliad Cymreig ar gyfer Adnoddau Naturiol/ Welsh Institute for Natural Resources Prifysgol Bangor University BANGOR Gwynedd

Postcode: LL57 2UW

What are the principal barriers you face to taking more long-term, joined-up decisions?:

The changing messages about sustainable development which emerge from the Welsh government and the associated lack of clarity about what the real issues are and what the focus of policy will be. The origins of the definition of “sustainable development” date back to the Stockholm conference in 1972. This conference brought forward the ‘developed’ nations concerns with the environmental degradation of the planet and the loss of natural resources. Developing nations voiced their concern to ensure that ‘sustainable development’ would not exclude their ability to secure economic development. Over 10 years before the Brundtland definition of sustainable development, the Stockholm Conference lead to agreement that “sustainable development should encompass the development needs of people without sacrifice of the earth’s capacity to sustain life.” We are now entering the 5th decade since the Stockholm conference. It is also 40 years since the then Secretary General of the United Nations asked Gro Harlem Brundtland, Prime Minister of Norway, to chair the World Commission on Environment and Development (WCED) in 1983 because of the already evident and established development-related environmental problems which had emerged into global awareness since the late 1960’s and throughout the 1970’s. During the intervening period real GDP; real incomes; real quality of life have all risen within the UK including Wales whilst at the same time over-reliance on and subsequent damage to the natural resources we rely on has continued. In Wales our carbon emissions and ecological footprint have increased over this exact same time span. One Wales: One Planet was an excellent step towards giving a focus,

for the very first time, on reducing Wales's ecological footprint. The Welsh Government made much of its leading role in the world in taking foreword the sustainable development agenda and this was embedded at the highest levels of the government. For example, the Ministerial Forward to One Wales: One Planet confirms that the following three elements are 'central to our approach to sustainable development:- Our new vision of a sustainable Wales, based on using only our fair share of the earth's resources, and becoming a fairer and more just nation; Sustainable development as the overarching strategic aim of all our policies and programmes, across all Ministerial portfolios; Sustainable development as the central organising principle of the Welsh Assembly Government and of the public sector in Wales. In the Ministerial Forward to One Wales: One Planet the First Minister makes clear that the way Wales is currently living is far from sustainable and that unchecked, our ecological footprint would rise to '3.3 planets worth by 2020' One Wales: One Planet gave the following clear commitment:- "Within the lifetime of a generation we want to see Wales using only its fair share of the earth's resources, and where our ecological footprint is reduced to the global average availability of resources – 1.88 global hectares per person with each Spatial Plan Area making its full contribution..... By the lifetime of a generation, we mean that we wish to see these changes brought about by the time our children are grown up". The phrase "ecological footprint" occurred 32 times in One Wales: One Planet and there were 61 instances of the word 'carbon' being used. Yet in contrast, the phrase 'ecological footprint' does not have even one single occurrence in this May 2012 Consultation Document on the Sustainable Development Bill, (the Consultation Document); the word "footprint" occurs just once – and then it is in a footnote and the word "carbon" appears just twice. The entire emphasis of the Consultation Document does not mirror the content of One Wales: One Planet. Instead, it appears that the Welsh Government has fundamentally changed its definition of what 'sustainable development' means. For example, 'wellbeing' – defined as a positive physical, social and mental state - has 68 references in the Consultation Document compared to 25 instances in One Wales: One Planet. It therefore appears that the Welsh Government is using the word 'sustainable' to justify the range of programmes that it would have undertaken regardless of One Wales: One Planet. This begs the question, where did the impetus for this shift of emphasis originate? Are we correct in our interpretation that the Welsh Government is no longer committed to the original definition of sustainable development as described within the context of the Stockholm Conference or the Brundtland report, and adapted for Wales in One Wales One Planet vis a vis "improving the quality of human life without sacrifice to the earth's capacity to sustain life." This change in emphasis by the Welsh Government first

became apparent in the Programme for Government, wherein the word 'sustainable' was increasingly used (97 times in total – between the main document and its Appendix). To the observer it appears that the word 'sustainable' is being used by the Welsh Government primarily in the context of securing the financial longevity of programmes rather than ensuring that such programmes are undertaken with due regard to the earth's carrying capacity to sustain Wales. Living sustainably within the earth's resource limitations is a fundamental requirement for wellbeing and quality of life yet we live in a time when population growth, climate change and global resource resilience are already creating pressures on living conditions at home and within the international 'global village' that Wales relies on. A failure now to take forward strong policies to secure a more resilient Wales in the future could well result in our country becoming ever more economically and socially vulnerable. The potential for ambiguity to creep into the definition was predicted as long ago as 1991. The International Union for the Conservation of Nature; the UN Environment Programme and the World Wide Fund for Nature recognised the potential ambiguity which might result from a selective interpretation of the Brundtland definition of sustainable development. In their publication "Caring for the Earth: A strategy for Sustainable Living" they make the point that "The term (sustainable development) has been criticized as ambiguous and open to a wide range of interpretations, many of which are contradictory. The confusion has been caused because "sustainable development", "sustainable growth" and "sustainable use" have been used interchangeably, as if their meanings were the same. They are not. "Sustainable growth" is a contradiction in terms: nothing physical can grow indefinitely. "Sustainable use" is applicable only to renewable resources: it means using them at rates within their capacity for renewal." And in addition the following point is made:- "if an activity is sustainable, then for all practical purposes it can continue for ever. However when people define an activity as sustainable, it is on the basis of what they know at the time. There can be no long-term guarantee of sustainability because many factors remain unknown or unpredictable." The Brundtland Report "Our Common Future" included a concluding, warning, statement that "Attempts to maintain social and ecological stability through old approaches to development and environmental protection will increase instability. Security must be sought through change...We are unanimous in our conviction that the security, well-being, and very survival of the planet depend on such changes, now." The Stiglitz Report The consultation document relies heavily on the Stiglitz report (the reference to the Stiglitz Commission in paragraph 15 of the Consultation Document is noted) and perhaps underlies the Welsh Government's apparent change in emphasis to consider 'wellbeing' in a social context, rather than

environmental. We suggest that the following points should be considered:- The Stiglitz Commission is properly called – “Commission on the Measurement of Economic Performance and Social Progress”. The aims of the Stiglitz Commission were to identify the limits of GDP as an indicator of economic performance and social progress, including the problems with its measurement; to consider what additional information might be required for the production of more relevant indicators of social progress; to assess the feasibility of alternative measurement tools, to discuss how to present the statistical information in an appropriate way. The consideration of sustainable development and environmental resilience was outside the direct remit of the Stiglitz Commission who nevertheless commented on it because it was recognised that environmental resilience impacted wellbeing. The report was written by economists and sociologists (paragraph 12 page 10) who formed the commission. Although some of the members had expertise in the ‘economics of climate change’, the environment and sustainable resilience issues pertaining to the natural resources of the world were not the *prima facie* area of expertise of any of the members. Members of the commission were experts on “social capital, happiness and health and mental wellbeing”. As such, their understanding of sustainable development in its broader sense, and therefore their ability to inform sustainable development policy, was limited. However the Stiglitz Commission factored in a consideration - albeit brief – of the environment because they recognised:- “we are also facing a looming environmental crisis” It is important to note, therefore, that the Stiglitz Commission approached its work from primarily a traditional economic accounting methodology and recommended increased use of metrics in a range of areas. The deficit of sustainable expertise is illustrated by the proposal that wellbeing and quality of life should be measured by wealth; household consumption and income distribution and also that the Commission proposed that increased leisure time must be a desirable objective. The fact that consumption levels in the developed world already exceed by a factor of between 3-5 times the level of demand that the earth can sustain was not considered in making these recommendations. There was no consideration that increasing material consumption and ‘wealth’ in themselves could be the reason for a deterioration in well being and quality of life – a concept that is gaining increasing support worldwide and which is specifically referenced in the 2007 document *Blueprint for a Green Economy*, issued by the Conservative Party and referenced as far afield as Australia (ACF – *Better than Growth*). The Stiglitz Commission also failed to employ a ‘health’ filter on their work. For example, the report suggests that the value of personal care activities (e.g. preparing home cooked meals or looking after relatives) has the exact same value as the cost on the open market of purchasing processed equivalent meals or



buying personal care from private sources. The health and mental wellbeing implications of these choices – “Not everything that counts can be measured and not everything that can be measured counts” -were ignored. Driven from a solely economic stance, the ‘metrification’ of such actions can be understood, but is this wise? The report also makes the assumption that all leisure is ‘a good thing’ and that in terms of wellbeing, time is ‘better’ spent in leisure activities than in looking after yourself and/or your relatives. This again is debatable and a cause for concern as it suggests that there are ‘missing links’ in the report, given the state of the health of the nation; the increased consumption of processed foods and the growth in popularity of dubious leisure activity such as binge drinking and the average leisure time of 4 hours a day spent watching live TV

(<http://www.guardian.co.uk/media/2012/jan/24/television-viewing-peaks-hours-day>). Indeed promotion of leisure time in the broad sense adopted by Stiglitz would seem to be counter-productive to Welsh Government strategies around sports participation and health to name but two. In assessing indicators – the Stiglitz Commission recognised the value of Ecological Footprint analysis in showing how global demand exceeded the carrying capacity of the planet. The Stiglitz Commission also felt that ecological footprint analysis may be unfair to densely populated countries – like the Netherlands. Notwithstanding this, the Stiglitz Commission found the use of the ecological footprint to provide “rather striking” results – illustrating the excess demands placed on the world and stated (paragraph 165) ....

“Ecological Footprints for countries should be used as indicators of inequality in the exploitation of natural resources and interdependencies between geographical areas” It is true to say that the Stiglitz Commission favoured carbon footprinting as a preferred tool – perhaps again reflecting the composition of the panel and the stated expertise in assessing the economic impact of climate change (as opposed to ‘sustainability’). Yet carbon footprinting has its limitations. It would, for example not reveal the vulnerability of the UK to virtual imported water from drought stricken countries – with 75.2% of all the UK’s water requirements currently being supplied from abroad (source waterfootprint network). Ultimately, if the change in the Welsh Government’s view of what comprises sustainable development and hence the focus of action under the Consultation Document is the report of the Stiglitz Commission, then we would point out that the Stiglitz Commission itself made a specific recommendation that:- “The environmental aspects of sustainability deserve a separate follow-up based on a well-chosen set of physical indicators.” This clearly indicates that in their opinion the emphasis of sustainable development policy should not switch away from the ecological carrying capacity of the earth’s natural resources. From a practical and pragmatic

perspective the Welsh Government risks being left behind as many private sector businesses across the world as well as in Wales recognise that they will benefit from adopting a holistic approach to sustainability and are firmly embedding it within their business. UPM Shotton, a company based in Wales, is an example of a company that is embracing this way of operating and won the Queen's Award for Enterprise : Sustainable Development for its efforts. Some international companies involved in resource heavy activities have already achieved zero waste water discharge; zero waste to landfill and unprecedented reductions in pollution and GHG emissions so if the Welsh Government's rationale is deliberate, rather than accidental through a misunderstanding of Stiglitz, it risks missing the opportunity that this Bill offers for securing a similar level of success across Wales and threatens the long term success of our economy in Wales. As a public sector body which operates in Wales, and has considerable expertise in sustainable development at an international level, Bangor University does not see a justification for redefining SD in the way suggested by this document. We remain committed to the original, globally accepted definitions of sustainable development and to the ideal of One Wales: One Planet. Bangor University is continuing to promote actions which help reduce our own environmental footprint because we believe, like so many other leaders in this field, that prioritising actions to safeguard the earth's natural environment is a vital component in delivering the desired outcome of a more prosperous, fair, just bi-lingual and sustainable society.

What actions need to be taken, and by who, to reduce or remove these barriers?:

The Welsh Government needs to be bold and consider taking action as follows: 1. clearly articulate the resilience issues which face 'developed' and rich countries like Wales in the light of rising oil prices; Wales' distance from key markets; population growth; pressure on natural resources worldwide and at home; and climate change related issues. 2. place these issues firmly within the context of a commitment to reduce carbon emissions by 80% and the ecological footprint to the equivalent of 1 planet earth – both by 2050 and with clear interim and stretching goals to enable progress to be monitored. 3. develop meaningful sustainable sourcing codes for use in all public sector tenders. Such an approach would make transparent the criteria required for contractors to be successful and which revolves around the following key questions: i) Where does it come from? ii) Who made it (and how)? iii) What is it made of? iv) What is it wrapped in? v) What will happen to it afterwards?

What other evidence is there about the extent of progress in relation to the Sustainable

The Welsh Government made numerous commitments in One Wales: One Planet most of which are detailed below. It would be helpful if the Welsh Government could identify exactly how it has fulfilled these commitments and the lessons learned in doing so. Since this information will be issued after the closing date for

Development  
agenda and making  
Sustainable  
Development the  
central organising  
principle of public  
bodies? :

responses to this consultation, additional time for comment thereon is required. One Wales: One Planet stated that the Welsh Government Will “ensure that we understand the carbon implications of our decisions, by building in an assessment of the carbon impact of a policy, programme or investment decision in the decision making process” Update the Policy Gateway Integration Toolkit to ensure that sustainable development is the central organising principle of policy development. We will ensure that our policies are aligned with the ‘direction of travel’ provided by our Sustainable Development Indicators as part of this. We will ensure that scrutiny of expenditure plans (including grant applications) tests whether the expenditure supports policies effectively. We will demonstrate that sustainable development considerations have been included as part of this. We will embed sustainable development into our new Strategic Capital Investment Framework (SCIF) agenda to change the way we plan and deliver major capital investment projects. This will help reduce the ecological footprint of our capital investment. We will benchmark our progress on sustainable development in our operations against other Government departments, using the Sustainable Development Commission’s Sustainable Development in Government (SDiG) reporting process, from spring 2009. We will reduce our greenhouse gas emissions by 3% a year by 2011 in those areas where we have devolved competence. This target will apply to all direct emissions and emissions from electricity consumption except those from heavy industry and electricity generation We are pursuing devolution of the Building Regulations to help us achieve our aspiration that new buildings constructed in Wales move rapidly towards zero carbon In terms of reporting, the Welsh Government undertook the following actions: ACTION 1: We will develop a measure of wellbeing in Wales, and report it as a 5th headline indicator of sustainable development. ACTION 2: We will benchmark our progress on sustainable development in our operations against other Government departments, using the Sustainable Development Commission’s Sustainable Development in Government (SDiG) reporting process, from spring 2009. ACTION 3: Through our Policy Integration Toolkit, we will identify how each new initiative can best contribute to sustainable development, and we will use the Resources and Energy Analysis Programme (REAP) to identify the contribution of these to reducing Wales’ Ecological Footprint. ACTION 4: To promote a low footprint Wales, we will further extend the use of ecological footprinting by introducing a grant scheme from 2009/10. ACTION 5: We will initiate, in consultation with local government, a strategic monitoring framework to measure key sustainable development outcomes delivered by the planning system. ACTION 6: We will develop a strategy to reduce each Wales Spatial Area’s ecological footprint across the range of its activities, and set this out in the Area’s delivery framework. As

part of this, we will define the concept of low-carbon regions and how this can be achieved in each Spatial Plan Area.

**ACTION 7:** We will have a National Energy Efficiency and Savings Plan that will better target our energy efficiency investments at the fuel poor, whilst promoting improvements for all households.

**ACTION 8:** We will work to develop a series of Sustainable Travel Towns in each region. To take this forward we will initially develop a pathfinder scheme in a large urban area. We will subsequently identify and develop a series of towns linked to other key settlement identified in the Wales Spatial Plan.

**ACTION 9:** Following a review of Axis II of the Rural Development Plan for Wales, we will set in place a structure of support for environmentally sustainable land management, including support for land-based carbon management through best practice management of soils, and management for water quantity and quality, biodiversity, woodland, landscape, heritage and access.

**ACTION 10:** In our economic development and regeneration work we will encourage our partners to adopt similar principles to ours, integrating social, economic and environmental considerations, and seeking to maximise the benefits to the local community and economy from the way regeneration takes place.

**ACTION 11:** By our Green Jobs Strategy, we will set out the path to a sustainable (Low Carbon, Low Waste) economy for Wales, and will identify the roles that the Assembly Government needs to fulfil. We will put in place an embedded delivery plan that will refine and redirect our activities that will be needed to make this happen, together with a monitoring and reporting framework for the plan.

**ACTION 12:** Our flagship programme, Communities First, will be reconfigured to ensure it will be more focussed on sustainable outcomes for local people and communities whilst tackling economic inactivity, child poverty and promoting income maximisation.

**ACTION 13:** We will invest £190 million in public health and health improvement through the Public Health Strategic Framework for Wales, 'Our Healthy Future' which will improve the quality and length of life and improve equity in health.

**ACTION 14:** We will ensure that sustainable development will be made a core objective for the restructured NHS in all it does, by giving clear duties to the new bodies to demonstrate best practice in planning and design, building, transport, waste management, and in use of energy and water.

**ACTION 15:** We will ensure that every community in Wales is encouraged to join the Gold Star Community scheme to link with a community in sub-Saharan Africa, and will support them in helping to develop whilst building community cohesion at home.

**ACTION 16:** Working with our partners we will deliver against all priority actions in the Education for Sustainable Development and Global Citizenship Action Plan by the end of 2009, and from this we will update and review the plan to provide a renewed focus from 2010-2014.

**ACTION 17:** We will

implement a programme of action outlined in the Historic Environment Strategic Statement including the conservation of a range of iconic Welsh cultural heritage sites, promoting sustainable techniques and traditional skills, as well as achieving improved physical and intellectual access for the public.

ACTION 18: We will ensure that Wales is recognised internationally as a leading sustainable tourism destination as set out in the Sustainable Tourism Framework by incorporating sustainability aims into all our tourism promotion and development by 2011, followed by a review in 2014 to refresh the programme of commitments.

Given the change in emphasis between the Welsh Government's own One Wales: One Planet document – signed by the then First Minister in 2009 and the current Programme for Government and SD Consultation Bill proposal which, as outlined earlier, do not seem to share the same emphasis and understanding of sustainable development, it is not possible to answer this question. It would be helpful to know how the Welsh Government has discharged the actions and commitments which it made in One Wales: One Planet. After three years, there should be valuable learning arising from the Welsh Government's own experiences in ensuring that sustainable development has become the central organising principle of government and how this is exemplified in policies, programmes and individual projects.

Have we identified the most appropriate level of organisational decision making at which the duty should be applied? Please explain:

Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?:

n/k

Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?:

n/k

Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?:

Legislation regulates to minimum standards. For this reason the approach identified will not satisfactorily ensure that pragmatic ecological best practise is secured and thus will not move Wales forward to reducing its ecological footprint within the lifetime of the current generation of children (ie by 2050 the commitment given in One Wales:One Planet). Tendering exercises, for example, need to explicitly state that bids submitted must illustrate the considerations that the bidder has made in ensuring

that the lowest ecological impacts possible arise from his bid. Such an approach would not compromise EU State Aid regulations yet would enable transparency in the assessment process of tenders; encourage ecological improvements and make it clear where barriers exist to securing the most socially and environmentally friendly options so that they may be removed.

Should budget proposals be subject to the duty? Please explain:

Yes, budget proposals should be subject to the duty. Without this there will be a lack of responsibility and accountability. Equally, economic and financial sustainability is a key pillar of SD in the broadest sense and should always be viewed as equally important to environmental and social concerns. To successfully behave sustainably we must integrate the three pillars of sustainability.

Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain:

To quote from the IUCN / UNEP and WWF 1991 document "Caring for the Earth: A strategy for Sustainable Living" "if an activity is sustainable, then for all practical purposes it can continue for ever. However when people define an activity as sustainable, it is on the basis of what they know at the time. There can be no long-term guarantee of sustainability because many factors remain unknown or unpredictable." 1. Risk assessment and confidence factors therefore need to be included and expressly stated on a project by project basis, benchmarked against published information and these should as a matter of course encompass natural resource availability both in terms of procurement and operationally (food / water / materials); GHG reduction targets and how the project will affect them; climate change and extreme weather events (affecting both the operation of any facility as well as people's ability to access it in times of severe weather); population growth and age-structure changes over the lifetime of the project and how it accommodates predicted changes in these; assumptions as to what regulations and taxes will affect the project over its life span) maintenance budget ; assumptions as to the level of maintenance budgetary resource which will be available to the capital project needs to be explicit as well as the risks arising from failure to maintain as required and anticipated at design stage. The Meteorological Office has published guidance about the range of weather conditions that will be experienced in the near future as a result of climate change. In order to ensure value for money it is therefore important that, in bringing forward

Are there critical behaviours that we have not identified? Please explain:

projects which have any long term implications – and therefore especially reorganisation / rationalisation / capital and infrastructure projects - full attention is given to the performance of the project concerned given the rapidly changing climate conditions it will face throughout its life. In addition, access to facilities (eg hospitals / clinics / government offices) will be compromised by extremes of weather which will arise on an increasingly frequent basis. Given the rural nature of Wales, climate change adaptation and mitigation needs to be carefully thought about and evidenced in the approval process in order to ensure the resilience of projects and their future ability to meet the needs of our population. As another example, given the legal requirement to reduce carbon (GHGe) emissions by 80% by 2050, the risk assessment and confidence factors need to make clear the assumptions relating to the use of fossil fuel or identified alternatives in proving the long term viability of every project and the risk of changes in those assumptions impacting on the projects viability (eg the use of globally sourced bio-fuel being ‘compromised’ by the need for additional food to feed the growing population; the ability of people to travel to a facility if personal carbon rationing is introduced by the EU; the availability, productivity and safeguarding of land given that agricultural production may of necessity be forced to become more extensive if it is to reduce its existing high dependence on oil).

2. Consistency and openness is a critical behaviour in promoting sustainable development; the Welsh Government and major public sector organisations must be seen to lead in this area.

3. Collaboration and pro-active open source provision of information to the public and private sectors as well as voluntary organisations will help disseminate lessons learned. There needs to be a requirement for all public bodies to make clear and freely available the sustainable development considerations they have made in their policies, programmes and individual projects

4. Evaluation and Peer Review. The sustainable development actions taken forward by public sector bodies need to be evaluated by people experienced and knowledgeable about sustainable development. Therefore peer review as part of the Local Service Boards may be a way to take forward the agenda in this regard.

5. Carbon and Ecological Footprint accounting. As a result of the One Wales: One Planet launch commitment to undertake a carbon and ecological footprint analysis of all programmes, the Welsh Government should by now have sufficient experience to be able to share best practice in carbon and ecological footprint analysis of programmes policies and projects and it is recommended that this be made a condition of public sector projects so that Wales may achieve the carbon reduction and ecological footprint reductions which the Welsh Government has already committed to.

What are the advantages and

The biggest disadvantage is the apparently changing message from the Welsh Government about what sustainable

disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?:

development is and what the Welsh Government is trying to achieve. This means that any behaviours that are designated – e.g. ‘long term thinking’ - are compromised by the changes in definition of SD and related goals.

is consistent with one, some or all of the behaviours:

We suggest that the adoption of appropriate risk assessments and confidence factors must be included in the high level decisions made in order to demonstrate the long term sustainability of the decisions reached. In addition, we suggest that direct and indirect ecological and carbon footprint analysis must be made explicit in the decision making process so that the public sector as a whole can be held to account for securing the improvements required. Where projects will have significant adverse impact on the successful attainment of these goals, the Welsh Government should have the right of a veto.

broadly reflects the behaviours:

is not inconsistent with the behaviours?:

are there other options?:

Are there core sustainable development objectives we have not identified above?:

1. Note that use of the word “should” (in the list of bullet points in paragraph 92) is not the same as using the word “must” therefore it is unclear whether these core sustainable development objectives are intended to carry meaningful ‘weight’ or not. 2. Ensuring Wales’ future resource resilience; Reducing household consumption; reducing personal debt and reducing Wales’ ecological and carbon footprint must all lie at the centre of the SD Bill – particularly as there is clear evidence that increased consumption harms wellbeing and results in stress related to debt; that a low impact lifestyle results in higher life satisfaction and that quality of life in affluent countries is inversely related to GDP growth. Therefore, in bringing forward policies / programmes / projects, public sector organisations must ensure that there is space to challenge current assumptions. For example, the assumption that people will own their own cars – or at least have dedicated access to a car. The possibility that people could and should be able to walk / cycle or use reliable public transport or car-share schemes to access facilities should be the norm. Objectives must be established which relate to Wales environmental resilience:- safeguarding the fertile soils in Wales so that they are not lost to soil erosion / compaction caused by intensive agriculture nor to development as climate change will cause the loss of many of the UK’s most fertile agricultural soils on the east coast ... 57% of Grade 1 land in the



UK lies below sea level... ensuring that developments provide net land gain for the potential of growing food. ensuring that hypoxic zones are not allowed to develop in our reservoirs and coastlines so that marine life – a source of high quality low cost food – is safeguarded. ensuring that landscaping is always of a productive nature (for wildlife / humans) and appropriate to future climate conditions. ensuring that all developments provide net biological and regenerative gain (eg through the use of vertical living walls / roof top gardens; renewable energy; Anaerobic digestion of human waste etc); that landscaping is always of a productive nature (for wildlife / humans) and appropriate to future climate conditions ensuring that hill slopes leading to upland areas are managed to avoid water run off, soil erosion and fire risks. The above list is not exhaustive, but is indicative of the types of considerations for objectives and goals.

What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?:

The biggest disadvantage is the apparent changed definition of sustainability from the Welsh Government This means that yesterday's objectives (carbon and ecological footprinting) may not be today's; and today's may not be what is needed in the long term. As drafted, this Consultation Document raises the prospect that Wales will fail to deliver on the key areas which underpin and are essential to the successful outcome of sustainable development ie the long term wellbeing and improved quality of life of its citizens.

only if they actively contribute to one or more of those objectives:

As drafted, the document's objectives are not well defined and so it seems unlikely that the objectives will have an influence in high level decision making processes.

if they do not detract from any of the objectives:

even if they detract from some of those objectives, as long as they actively promote others?:

are there other options?:

What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?:

The advantage of focussing on both objectives and behaviours is the provision of a set of measurable targets underpinned by broader societal behaviours. However, as drafted, the behaviours and objectives are weakly described and there is a real danger that business as usual will be a valid option because it will be possible for anyone to point to one behaviour or objective and say "this satisfies that" in some loose tenuous way. The objectives and behaviours need to be far more defined and specific about what exactly would satisfy them, or not and they need to ensure that success in one does not harm another (e.g.

the use of non-sustainable, highly toxic insulation would be environmentally damaging yet potentially could satisfy an objective to improve poverty in deprived communities by reducing heating demands).

What are your views on basing a duty around a single sustainable development proposition?:

It would only be viable if the single proposition were firmly based on the internationally recognised (Stockholm Conference and IUCN / UNEP / WWF) definition of sustainable development as: “improving the quality of human life without sacrifice to the earth’s capacity to sustain life.” Based on the way this consultation document has been drafted, the changed emphasis and meaning related to ‘sustainability’ when compared to One Wales: One Planet and the high number of questions the Consultation Document itself includes, it appears that there is a low level of agreement within the Welsh Government as to what the SD Bill should be securing. The problems with the statement that is put forward in this document... that “The wellbeing of present and future generations should be enhanced” include:- 1. Note the use of the word ‘should’ in the draft single proposition statement. This means that wellbeing should – but need not be enhanced. The word ‘must’ needs to be used instead but to do that, there needs to be evidence as to what the level of wellbeing is now; why it is at that level and how it will be changed by a variety of factors. From this consultation document, it does not appear that this level of understanding exists. 2. Wales already enjoys excessively high levels of wellbeing when considered in a global context. So does this statement refer to equalising wellbeing within Wales or between Wales and the rest of the world? 3. The connection between our wellbeing as an animal species and the carrying capacity of the ecosystem we rely on simply must feature in this statement. It lies at the heart of sustainability however it is defined.

How much time should organisations be given to make these changes?:

This question would be easier to answer if the Welsh Government could report upon the progress that it has made in the three years since the range of commitments in One Wales: One Planet. That level of institutional learning would be of real use in assisting organisations with their own compliance and in setting realistic timeframes for compliance. In addition, because this consultation document is broad and asks multiple questions, it is not yet possible to know what it is that organisations would be complying with.

Would it be helpful to issue formal guidance to organisations subject to the new duty?:

Yes – but there is no evidence that the Welsh Government has the expertise to either do this itself. There would be a need for experienced practitioners to deliver this kind of guidance.

Should any such guidance be issued by the Welsh

1. The Welsh Government does not have the expertise in delivering cross-cutting sustainability to be able to do this itself  
2. Question 28 of the Consultation Document outlines three

Government or the new sustainable development body?:

different purposes for the new SD body. Question 29 seeks respondents preferred approach for the SD body. As drafted, this question therefore risks compromising the analysis of the answers given to these questions. For example, a strong preference for the SD Body to provide a scrutiny role may arise from question 29, but because question 20 only gives two options will almost inevitably result in a preference for the SD body to issue guidance. How will WG interpret the results? 3. A third option would be preferable and that is that any guidance should be issued by established and respected leaders in the field of embedding sustainable development within organisations.

Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?:

n/k

Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?:

n/k

Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?:

Formal report back mechanisms must be introduced although there are alternatives – eg the requirement to report back via the Global Reporting Initiative may be more appropriate and would simultaneously help evidence to the world the progress that Wales is making.

Are there organisations on this list that should not be subject to the duty? Please explain:

Are there organisations that are not listed above

All ASPB's in Wales

but which should be  
subject to the duty?  
Please explain:

Are there other  
advantages or  
disadvantages to  
defining  
“sustainable  
development” and if  
so, what are they?:

If we were to define  
“sustainable  
development” do  
you think that the  
working definition  
above would be  
suitable and why?:

The greatest disadvantage would arise if the Welsh Government adopted the ‘homegrown’ definition proposed in this Consultation Document – which would put back the cause of sustainable development in Wales by introducing complex vagaries which would permit ‘business as usual’ to continue. The advantage of adopting an internationally agreed definition of sustainable development would include the fact that Wales would be able to provide a global leadership on what is a global issue and place the ecological carrying capacity of the world at the heart of its sustainable development policy - as articulated in One Wales: One Planet. The fact that the Welsh Government is now prioritising the concept of social ‘wellbeing’ in its Programme for Government and in this Consultation Document illustrates the importance of choosing a definition which has been ‘internationally’ recognised and agreed. The 1991 UNEP / IUCN / WWF definition of sustainable development or the definition which emerged from the Stockholm Conference is therefore recommended e.g. “improving the quality of human life without sacrifice to the earth’s capacity to sustain life.”

No – absolutely not. 1. It is not acceptable that five decades on from the Stockholm Conference; 30 years on from the commissioning of what is now known as the Brundtland Report; 21 years on from the UNEP / IUCN / WWF’s “Caring for the Earth” and 3 years on from One Wales: One Planet that there appears to be some confusion about what sustainable development means. The advantage of having an internationally accepted definition of SD - such as “sustainable development means improving the quality of human life while living within the carrying capacity of supporting ecosystems.” (UM IUCN WWF\_ Or “improving the quality of human life without sacrifice to the earth’s capacity to sustain life.” (after the Stockholm Conference) is that Wales will be operating on a global level in a consistent language which is clear and unequivocal; that has been agreed and used by bodies with international standing and so will be able to contribute to the leadership in the field of sustainable development. The disadvantage of having any other definition of SD – ie a ‘home grown alternative’ is that it will provide room for confusion. This will mean that politicians will prioritise whichever aspect of SD they prefer according to the economic circumstances of the time. This will mean that the Welsh Government could confuse global progress being made on SD but more importantly in a Wales context, will fail to safeguard the most basic needs of its society which include the biological needs of food; drink; shelter and medical care the production and distribution of goods Given that world resources and oil for transport are finite – these two of

six identified essentials for the longevity of a society (Tumin and Bennett) need the Welsh Government's critical attention now; to wait until there is a problem will be too late. It isn't clear why the Welsh Government does not want to adopt the suggested definition of sustainability thereby missing an opportunity to ensure that the environment has a prominent place in all decision making. If it is fearful of retribution from its detractors Welsh Government should take heart from the fact taking difficult decisions is a key component of responsible leadership remembering that: Modern society is technologically far superior to any that has gone before, we have all the means to head off the worst effects of climate change and adapt to those we cannot avoid. History tells us however that the most common reason societies collapse is not inadequate science or technology but failure to take the difficult decisions necessary for survival Prof. Peter Saunders Sussex University; Institute of Science in Society. 3. Given projected population increases in Wales, how will our 'fair share of the earth's resources' be evaluated? This 'fair share' will of necessity become an increasingly smaller proportion of the finite resources available but there is nothing contained in this document to indicate any understanding of what this means in practise nor how it will be measured and delivered. 4. Since 'diseases of affluence' have emerged in the richest countries of the world, it is unclear how any definition of Sustainable Development which links the enhanced economic wellbeing of (all) people and (all) communities to an improved quality of life will, in practise be delivered. Many would argue that beyond a certain point of affluence, in rich countries - of which Wales is one - increased economic wellbeing results in increased environmental degradation as well as associated physical and mental illnesses. 5. The proposed definition lacks any relationship to the very real constraints that the economy of Wales and in particular its Medium, Small and Micro businesses will face in the future. Increasing costs will result from the diminishing supply of finite world resources. The post peak-oil scenario will in itself increase costs in Wales, a geographically marginally located country relying on long distance international transport. Welsh businesses must become more efficient in their consumption of resources - not just because of concern for the planet and aspirations to achieve One Planet living - but because such resources will cost more and so threaten their very profitability and ultimate 'sustainability'. The economy of Wales is dependent on the Welsh Government making very clear what it is trying to achieve through sustainable development and why.

What should be the overall purpose for a new body?:

1. Holding the Welsh Government and public sector organisations to account in the delivery of sustainable development and progress towards carbon emission and ecological reduction targets in Wales .
2. Identifying areas of conflicting policy
3. Evaluate projects in order to provide evidence of more sustainable delivery options.
4. Collate and

disseminate professional analysis and case examples of sustainable development from within Wales and from around the world. 5. Provide a clear structure and understanding of sustainable development and provide access to professional guidance (not necessarily from within the SD body itself) on implementation 6. Ensure that public sector organisations both complete annual SD reporting (via the Global Reporting Initiative or as part of their routine annual report mechanisms) and identify improvements that have been made; areas which could be improved further and areas which have been overlooked. 7. Facilitate peer review / collaboration and sharing of experiences in delivering SD within Wales and internationally. 8. Identify the barriers to successful implementation of SD within all aspects of public sector and private sector activity and recommend solutions 9. Co-ordinate the role of WRAP; the Carbon Trust and EST in Wales. 10. Provide an Ombudsman role for SD in Wales 11. Act as a source of final appeal for grievances associated with the specific sustainability aspect of planning decisions and sustainability functions of public sector bodies 12. Respond formally to policy consultations and developments 13. Refer cases to the AGW where there is poor compliance with statutory requirements on SD 14. Provide informed advice to the AGW of pragmatic sustainability solutions which could have been implemented in the event of the AGW investigating poor SD compliance within the public sector 15. Keep the Welsh Government informed of emerging issues in the field of sustainable development. 16. Ensure that the Welsh Government maintains a consistent interpretation of sustainable development. 17. To provide funding to 'bridge the gap' between the cost of delivering a project in an acceptable way in accordance with existing legal regulations and the cost of delivering the project to the highest levels of sustainable development. This is already an approved State Aid which the Welsh Government can offer but there is a need for this to be 'devolved' to a separate body because officers bringing forward projects lack the expertise to identify sustainable best practice.

Do you have any views on the preferred approach regarding the main functions of a new body?:

The statutory body must be independent of the Welsh Government and encouraged and enabled to fulfil the role that Cynnal Cymru was originally established to do – namely challenge, query and question the delivery of sustainable development in Wales.

Are there significant disadvantages to establishing a new body on a statutory basis?:

Not from the viewpoint of securing sustainable development in Wales.

Do you agree with

No. The emphasis on wellbeing is too vague and risks

the proposed functions for a new body established on a statutory basis?:	compromising delivery of a sustainable 'fair, just and bi-lingual' nation operating within the ecological carrying capacity of the planet
Are there other functions which should be considered?:	Yes i) the statutory body must have within its remit the consideration of progress towards achieving carbon / GHGe and ecological footprint reduction targets. ii) this question should be cross-referenced for all respondees to their response given to question 28 iii) the body should have wide-ranging abilities to do anything, anywhere, which furthers the progress of sustainable development in Wales. This includes: actions undertaken abroad (e.g. commissioning research; holding or attending meetings conferences and seminars) 'gap funding' of projects in order to ensure they meet optimum rather than regulatory levels of sustainable design Charging for its services Carrying out or commission the carrying out of such enquiries, investigations or researches as it may deem necessary or expedient for the purpose of its functions Undertaking exemplar sustainable development projects itself Appointing third parties to act on its behalf in the exercise of its functions Establishing committees for the discharge of any of its functions or for providing it with advice Producing such publications as it sees fit for sale or otherwise provided that such publications are wholly or mainly related to the functions of the statutory body
Do you have particular views on the independence of a new body?:	The body must be genuinely independent of government and be able to undertake its functions without fear of compromise of its budget. The body should be apolitical and enabled and empowered to establish and / or work with cross-party political working groups as deemed appropriate.
Do you have particular views on the accountability arrangements for a new body?:	Not at this stage
Do you have any other related queries or comments?:	Executive Summary Bangor University welcomes the opportunity to respond to this consultation. Wales has a reputation for leading the way with a genuine (and binding) commitment to sustainable development and the University sees this consultation as an opportunity for the people of Wales to contribute to cementing this commitment of a nation to a sustainable future. Indeed, much of what we do at Bangor University is predicated on our desire to be THE Sustainable University; whether through our teaching, research or public engagement. This consultation is important therefore to us both intellectually and developmentally and our response aims to strengthen the important steps that Wales has taken on the road to sustainability, for the benefit of all our futures. We find that there is some ambiguity over the definition of sustainable development in the document and comments in this response

hinge on this ambiguity. The world has an agreed and easily understood definition, which was adapted for Welsh purposes in One Wales One Planet in 2009. The reasons why and justification for equating sustainable development with “well-being”, are not clear in our opinion. This departure from the central ethos of the Successful One Wales One Planet strategy is of concern without significant evidence to justify the change in direction of travel. Our belief is that the consultation document needs to further explore what is unsustainable in the current system. Given the current financial climate a topic dominating the reality of the people of Wales is their own immediate financial future and the prospects for their families. The document doesn't seem to address the challenges associated with the current economic model. In the North West Wales consultation in Bangor it was noted that we need a new economic model and a way of transitioning between the current and new model. This is essential: Some people understand that “sustainable economic growth” is an oxymoron which will eventually have a detrimental effect on their wellbeing and on the environment, which according to this document is what sustainable development seeks to enhance. It would be helpful if there was some rationale for the introduction of a SD Bill. There is a sense that SD is used as a vehicle to implement some of its policies e.g. early education and support for families rather than a framework for testing the decision making process. WG might consider the inclusion of a legal requirement for public sector bodies to take action to measure and reduce their resource consumption so that Wales can achieve the commitments that WG gave in One Wales: One Planet namely to reduce consumption to a One Planet economy. Carbon and ecological foot-printing are not made explicit. This has implications for the wider sustainability of the economy of Wales because local businesses that supply to the public sector must learn to become more ‘lean’ in their resource consumption and energy demands if they are to remain competitive in the longer term – in a world where reduced availability of raw materials will result in increased prices. The most centrally located industrial manufacturing areas will benefit from reduced transport costs; but being peripheral, Wales will find it harder to compete. SD has been the WG's ‘central organising principle’ for a decade. There is no explicit evidence provided in the document to indicate that WG itself walks the talk. And yet there IS significant evidence of this commitment from WG and its impact following One Wales One Planet. For example, Wales led the way with the ban on smoking in public places and is now leading the way with its policy on carrier bag charging. This is important and ground breaking action by WG and should be acknowledged and built upon in any new SD Bill. WG has been bold and innovative in its approach in the past and we would like to see this same attitude of ‘challenge for positive change’ reflected in



the new SD Bill. It would be useful to share the benefits WG have reaped from sustainable development as one of their organising principles and to further understand the rationale for putting this into law. It would be useful to be provided with evidence of the tangible benefits associated with this, the associated challenges and the reasons why it is necessary to take this path. An analysis of the risks associated with not taking this course of action would also be helpful. This consultation raises the bar for 'wellbeing' and in doing so risks undermining the work done to date on key environmental aspects of SD in Wales. It also though seems to lack focus on some of the key cultural aspects of wellbeing and their unique place in Welsh life. WG has an opportunity to provide a vision for the Nation of Wales – a fair, just, bi-lingual nation (where Welsh is a language for everyone, not only those who currently speak Welsh). It would be a huge advantage to see these social and cultural aspects of wellbeing addressed more specifically in the consultation. Our concluding suggestion is that this Bill and the consultation process, whilst very well meaning, require much clarification and definition in terms of what is meant by Sustainable Development, what the metrics of success will be – what does a sustainable Wales look like environmentally, socially and economically? In addition we would like to see more clarity and focus around dealing with specific aspects such as sustainability for businesses, a commitment from the public sector on sustainable behaviours the role of Higher Education and a clear focus on the unique cultural aspects of sustainability in Wales. We suggest that much by way of definition and so on has already been rehearsed in One Wales One Planet. Other nations have looked to Wales for a lead on some of the issues surrounding sustainability, such as smoking and retail carrier bags, these are not the only successes but they are headline successes. Wales has not been afraid of asking the challenging questions and taking the difficult decisions in the past and we are keen to ensure that this consultation builds on this and develops a culture of genuine and high impact change for the better. As researchers and educators we have an eye on the future and we would wish this consultation to become a key stepping stone to a future for Wales that is environmentally, socially and economically sustainable; our responses are a reflection of this.



SD Bill Team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

**By email to [sdbill@wales.gsi.gov.uk](mailto:sdbill@wales.gsi.gov.uk)**

18 July 2012

Dear Sustainable Development Bill Team,

**RE: CONSULTATION ON PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL FOR WALES**

ScottishPower Renewables (SPR) is the largest operator of onshore windfarm assets in the UK and the UK's leading developer with over 1,300MW of consented projects and a large pipeline of future projects. We have a significant interest in offshore wind and we are a leader in the development of new marine technologies. We therefore welcome the opportunity to feed into this consultation process.

**Defining Sustainable Development**

We welcome the Welsh Government's recognition of sustainable development as a central organising principle of the Welsh Government and Public Bodies in Wales. In particular we welcome the proposal that public bodies should use sustainable development thinking to *"inform their decisions, so that these decisions are considered through the 'lens' of sustainable development."* A clear link should be made to the role of the planning system in development planning and decision-making and its role in delivering sustainable development.

This is especially important in the absence of local renewable energy targets and is critical to encouraging local authorities to support the development of appropriate and sustainable energy projects. Not only will this help facilitate the much needed investment and subsequent deployment of the sustainable energy infrastructure needed to ensure security of supply, but at the same time it can minimise cost volatility for the consumer and ultimately lead to an overall reduction in carbon intensity of the energy sector, helping mitigate the impacts of climate change.

**Sustainable Development Duty**

It is our view that relevant public bodies should be expected to contribute to the delivery of the UK and Welsh Government renewable energy policy goals and be incentivised to do so. Therefore, we would welcome a requirement on public bodies such as local authorities and statutory agencies *"to ensure that their high level decisions are informed by sustainable development thinking"* (paragraph 78).

Within the sustainable development duty an explicit link should be made to the presumption in favour of sustainable development (as consulted upon in May 2012). The Planning

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system has a key role to play delivering sustainable development which integrates economic, social and environmental objectives. The planning system should promote development that supports the move towards a more economically, socially and environmentally sustainable society.

### **Monitoring**

In order for the Sustainable Development Duty and provisions in the bill to be meaningful, monitoring of its delivery will be necessary. We would ask the Welsh Government to monitor local authority determination rates and times of renewables applications centrally to improve transparency and help target areas for improvement in order to meet Wales' renewables targets.

I hope these comments are of use and please feel free to contact me on 0141 568 2992, or at [rfurlong@scottishpower.com](mailto:rfurlong@scottishpower.com) should you require any additional information.

Yours faithfully,

Rachel Furlong  
Policy Manager (Environment)

## **Auditor General for Wales' response to Welsh Government consultation on proposals for a sustainable development Bill**

### ***Promoting sustainable development (section 3)***

#### **Q.1 What are the principal barriers you face to taking more long-term, joined-up decisions?**

In our view, the principal barriers that we face to taking a more long-term, joined-up approach to decisions are:

- a) the somewhat disjointed legal basis for our work—for example, the different funding and reporting arrangements between central government and local government value for money audit work leads to administrative complexity and costs that are barriers (albeit not always insuperable) to cross-sectoral examinations;
- b) a business and cultural context that has a short-term focus and is less than perfect in bringing long-term costs and benefits into consideration—for example, our suppliers of accommodation understandably tend to have a focus on cash-flow and short-term returns that militates against investment in energy-saving measures that have extended pay-back periods;
- c) legal requirements (which reflect underlying socio-economic expectations) that tend to lead to an annual focus in matters of financial management—for example, our estimate of income and expenses has to be produced on an annual basis, while there is no legal requirement to plan on a longer-term basis.

#### **Q.2 What actions need to be taken, and by who, to reduce or remove these barriers?**

We consider that the actions needed include:

- a) introducing legal requirements that encourage a longer-term view in decision-making processes—this is a matter for the Welsh Government to pursue through the National Assembly, as it proposes;
- b) rationalising existing legislation and guidance—for example, streamlining the improvement duties set out in Part 1 of the Local Government (Wales) Measure 2009—this is chiefly a matter for the Welsh Government (see response to Q21).;
- c) development of legislation and guidance to improve transparency and accountability in decision-making through reporting—this will include robustly applying the principles of the International Integrated Reporting Initiative, Accounting for Sustainability and Connected Reporting. Application through secondary legislation is a matter for the Welsh Government, but compliance is a matter for all relevant Welsh public bodies, and scrutiny would appropriately fall to the Auditor General;
- d) developing public audit arrangements so as to provide appropriate scrutiny of compliance with a) and c) above, and to help progress more widely. Primary legislation to develop the legal framework for public audit is clearly a matter for the National Assembly, pursued by the Welsh Government with input from the Auditor General. Developing the actual audit practices is chiefly a matter for the Auditor General, though

any other auditors operating in the Welsh public sector will need to follow such developments;

- e) building on the positive progress made, in some areas, towards embedding sustainable development. This includes the Welsh Government continuing its commitment to a citizen centred approach. For the full range of Welsh public bodies this involves the pursuit of collaboration and drawing on over a decade of learning.

In relation to the matters above, will need to engage our staff in a significant programme of awareness raising and knowledge development in relation to the audit implications of the proposed legislation. We will also need to explore further how best to access relevant external expertise to support our capability to undertake sustainable development examinations.

We will also need to work closely with the proposed new body in order to access advice and guidance. A key mechanism for managing the effects of the new duty will be working with other regulators and inspection bodies to agree a common approach. In relation to Local Government (Wales) Measure 2009 work, the AGW has a duty to coordinate relevant regulators, which could be an important mechanism in this respect. It would be helpful if there were reciprocal duties to collaborate between the new body and AGW and relevant regulators.

#### ***Evidence in relation to sustainable development (section 4)***

#### **Q.3 What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?**

Much of the evidence presented in our 2006 summary report on sustainable development and local government in Wales and in our 2010 report, *Sustainable development and decision making in the Welsh Assembly Government*, remains relevant, as do some of the conclusions and recommendations. The recent review of the Welsh Government's sustainable development Scheme by PWC, published in January 2012, noted progress in several areas but confirmed that some of the issues identified in WAO's report of 2010 still need to be addressed.

There is a substantial body of research that supports the embedding of sustainable development in key decision making to improve the quality of public sector governance, at all levels. For example, *Governance for sustainable development: the challenge of adapting form to function*<sup>1</sup> draws on a wide range of international research to highlight both the challenges which a commitment to sustainable development poses, as well as how it can help tackle some of the deep seated problems facing governments. It notes that the starting point is that the task of achieving sustainable development is a rational one: a process that can, to a reasonable degree, be 'steered' by governing procedures and institutions; and that governments committed to sustainable development are willing to alter existing governing systems in order to better achieve sustainable development goals. In this respect,

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<sup>1</sup> Governance for sustainable development: the challenge of adapting form to function, edited by William M. Laffery, Edward Elgar, Cheltenham, 2004

governance represents the totality of ‘mechanisms’ and ‘instruments’ available for influencing social change in pre-ordained directions.

### ***A new sustainable development duty (section 6)***

#### **Q.4 Have we identified the most appropriate level of organisational decision-making at which the duty should be applied? Please explain.**

It is difficult to be definitive about the most appropriate level, but the level identified seems consistent with the Government’s intention to make sustainable development the central organising principle so as to target those decisions that have the greatest influence on behaviour while avoiding significant resources implications that are hard to justify. Addressing high-level decision making in the first instance does seem to be a prudent approach.

#### **Q.5 Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?**

While the Welsh Government is right to consider whether some decisions require an independence of mind and whether such independence should be protected from a requirement to comply with sustainable development duty, given the proposed application to only higher-level decisions, we consider that this risk should not be overstated. For example, clinical judgements are mentioned at para 87 of the consultation document, but population-level clinical judgements, such as in relation to the implementation of particular health-improvement measures (e.g. drug use guidelines), are not taken in isolation—economic factors and environmental factors, among others, also taken into account. In our view, such judgements should not necessarily be outside a suitably formulated sustainable development duty.

#### **Q.6 Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?**

As mentioned below in response to Q7 and Q8, budget decisions and procurement are key areas that need to be captured. Our response to Q24 is also relevant, as decisions made by bodies that are not to be covered by the duty will be decisions that are not captured.

#### **Q.7 Should we include decisions which govern an organisation’s internal operations? If so, which internal operations should we include?**

If the duty is to cover longer-term strategies, annual plans and policies that govern how an organisation is to deliver its services or use public money or govern others delivering services on its behalf (para 81 of the consultation document—which we consider appropriate), then clearly it will cover decisions that govern an organisation’s internal operations, as services

cannot be delivered without internal operations. It may, however, be helpful to provide non-exclusive examples in legislation of internal operational decisions that are covered by the duty. We consider that such decisions should include the setting of procurement policies, estates strategies and operational transport strategies and policies.

**Q.8 Should budget proposals be subject to the duty? Please explain.**

Yes, embedding sustainable development in budget proposals and decisions is a key high level area to which the duty should apply. The substance of many significant business decisions is taken in budget allocation processes, alongside, or in some cases instead of, annual plan decisions.

Finance professionals are increasingly being seen as having a crucial role to play in relation to embedding sustainable development in key decision making processes. There are international examples where the finance ministers have taken a lead role. In the private sector examples are increasing of financial directors leading on sustainable development. A number of professional bodies in the field of accountancy, such as CIPFA, have produced a range of material aimed at supporting the accountancy profession to respond to the challenge of embedding sustainable development. Some of these contributions identify a transformational role for the accountancy profession, in relation to sustainable development. These include CIMA, ACCA and IFAC as well as Accounting for Sustainability.

***The behaviours approach***

**Q.9 Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.**

It is difficult to be definitive about which behaviours are critical to acting in ways that reflect sustainable development thinking, but all those identified appear to be conducive to sustainable development. System-wide thinking may be a better description of what is in view than “working across organisational boundaries”.

**Q.10 Are there critical behaviours that we have not identified? Please explain.**

A focus on, and commitment to, sustainable development itself seems to be needed.

**Q.11 What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?**

As the Government’s current sustainable development scheme, *One Wales: One Planet*, states, “sustainable development is a process”. The behaviours approach is important because it puts in place expectations in relation to how decisions will be made. It begins the process of establishing governance for sustainable development.

However, research, such as that set out in the United Nations Environment Programme report *Decoupling natural resource use and environmental impact from economic growth* (2011) has identified that decoupling socio-economic wellbeing from environmental impacts has to be emphasised as a goal, for sustainable development to be effective. (For clarity, we regard such decoupling as the improvement of the wellbeing of people, for example in terms of economic security, without causing further adverse environmental impact (and, better, while reducing adverse environmental impact). As that goal will need to be in mind in decision-making, this aspect of delivering sustainable development is suited to an objectives-based or a combined approach. (See our response to Q13.)

**Q.12 How much influence should sustainable development behaviours have over high level decisions – for example, should those decisions be lawful if they have been reached in a way that:**

- is consistent with one, some or all of the behaviours;
- broadly reflects the behaviours;
- is not inconsistent with the behaviours?
- are there other options?

High level decisions should all be consistent with all behaviours. However, the legislation should provide for situations where the behaviour cannot reasonably be met, such as where engagement with all stakeholders is not practicable (e.g. decisions that concern substantial green-house gas emissions), so that evidence of a reasonable and considered approach may enable a decision to be deemed lawful. (Operational decisions may have to be made which are short term, or not focused on prevention etc, but these will need to be justified and be for a limited timeframe, and be taken in the context of a plan to comply with the duty.)

### ***The objectives approach***

**Q.13 Are there core sustainable development objectives we have not identified above?**

Following our reasons under our response to Q11, we suggest that the need to decouple socio-economic wellbeing from environmental impacts, should be a core sustainable development objective.

**Q.14 What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?**

We consider that these objectives would not be effective in delivering sustainable development. They are likely to perpetuate the pick-and-mix approach to economic, social and environmental wellbeing that is taken in some parts of the public sector. They would be



unlikely to lead to integrated and balanced progress. There is also duplication and overlap among the objectives. With such flexibility and lack of clarity, it would be difficult to ascertain compliance, so we suspect that the objectives could not be monitored effectively and therefore would not support effective feedback and evaluation.

Identifying a small number of specific objectives and combining them with the behaviours approach might be effective, but there would be significant trade-offs between complexity and coverage.

**Q.15 How much influence should the objectives have over high level decisions – for example, should those decisions be lawful:**

- only if they actively contribute to one or more of those objectives;
- if they do not detract from any of the objectives;
- even if they detract from some of those objectives, as long as they actively promote others?
- are there other options?

This question highlights the key problems with this approach. Clearly few decisions can contribute to all the objectives, and many will involve detracting from some while meeting others. Selective application is therefore inevitable, and this is conducive to the pick-and-mix approach mentioned in response to Q14.

***The combined approach***

**Q.16 What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?**

The combination of the current behaviours with the current objectives would have significant disadvantages. The overlapping nature of the objectives would result in complex and opaque reporting. It would also be unlikely to provide any information on whether progress was being made in decoupling economic and social wellbeing from adverse environmental impacts.

However, we consider that a combined behaviours and an objectives-based approach would be the most effective approach if a different approach were taken to objective setting. To be effective, objectives need to be specific and capable of being modified in the light of learning and performance. This does not make them suitable for inclusion in primary legislation.

We therefore favour a combined approach in which an organisation complies with the duty through the behaviours it demonstrates when making decisions, accompanied by the Welsh Government being required to set specific objectives at least every five years. The Welsh Government should be required to consult the new body regarding the setting of the objectives.

### ***A single sustainable development proposition***

#### **Q.17 What are your views on basing a duty around a single sustainable development proposition?**

We suspect that this single sustainable development proposition approach would lead to a lack of consistent effort and progress—even more so than under the objectives approach. Certain aspects of wellbeing would probably be favoured over others without this even being apparent in any record of the decision-making process. Consequently, it would be very difficult to achieve meaningful audit of compliance against the single proposition as set out in the consultation.

### ***The time organisations may need to comply***

#### **Q.18 How much time should organisations be given to make these changes?**

Public sector bodies will have to overhaul their key business planning and other decision-making processes in order to meet the duty. Key decision-making staff will need training on how to meet the duty. In addition, the new body will need to be properly established before it will be an effective source of expertise and guidance. We consider that at least 18 months will be needed for such preparations to be made.

### ***The provision of guidance***

#### **Q. 19 Would it be helpful to issue formal guidance to organisations subject to the new duty?**

Yes. Such guidance would be helpful in promoting a common and positive understanding of the duty. Among other things, such guidance would help prevent individual bodies wasting effort in developing approaches to compliance in isolation. It should also help reduce the amount of effort put into developing responses that subvert the duty.

#### **Q. 20 Should any such guidance be issued by the Welsh Government or the new sustainable development body?**

The question of who issues guidance is linked to the overall governance arrangements for the new duty (see Q28). If the new body is to follow the expert advice and guidance model set out in the consultation document, then it follows that that body should issue guidance.

However, if the new body is not established well before the commencement of the duty, it would be helpful if the Welsh Government issued formal guidance. It is important that government officials work with key stakeholders to develop the guidance, while the White Paper consultation is underway. This will ensure that the guidance is available in time to make preparations as opposed to some months after enactment, as has happened with some previous legislation.

## ***The repeal of duties***

### **Q.21 Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?**

Given the complexity of establishing sustainable development as the central organising principle of government, it is important to maintain clarity and focus. For that reason, the aspects of the Government of Wales Act 2006 that place a duty on Welsh Ministers to make a Scheme to promote sustainable development should be repealed. However, this should only be done if a durable and robust definition of sustainable development is included in the proposed sustainable development Bill.

Part 1 of the Local Government (Wales) Measure 2009 could be streamlined in the light of the proposed sustainable development duty. In particular, the aspects of improvement provided by sections 2 to 4 could be replaced by a reference to economy, efficiency and effectiveness (sustainable development being an intrinsic part of such a definition).

### **Q.22 Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?**

In our 2006 and 2010 reports noted that the potential of the 'Making the connections' policy and WPI legislation and guidance had not been fulfilled in relation to sustainable development. The Local Government Measure (Wales) 2009 places sustainability as one of seven "aspects of improvement" and in effect establishes sustainable development as one of seven, potentially, competing priorities. This is clearly incompatible with the Welsh Government's stated intention to make sustainable development the central organising principle.

HM Treasury's guidance on public sector annual reporting sustainability reporting is helpful in terms of promoting a more rigorous approach to environmental stewardship reporting. However, by labelling its environmental stewardship reporting, "sustainability reporting", it is currently a barrier to the integrated and balanced approach to sustainability being proposed by the Welsh Government. We recognise that the Sustainable Development Bill cannot amend HM Treasury guidance. We suggest, however, that the Welsh Government, in framing of the Bill, will need to try and integrate the requirements of this aspect of HM Treasury guidance into a more connected and integrated approach for reporting sustainability in the Welsh public sector.

## ***Reporting***

### **Q.23 Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?**

We have reservations about the value of organisations reporting themselves on how their higher level decisions comply with the duty. We suspect that such a requirement may lead to extensive volumes of self-justificatory narrative. Alternatively (or in addition), it may lead to box-ticking compliance bureaucracy.

We do, however, see value in organisations properly recording their decision-making so as to enable it to be externally reviewed and failure to comply to be reported on by the AGW (or other auditor).

Avoiding separate ‘sustainability’ reports is consistent with the commitment to make sustainable development the central organising principle of the public sector. It is also consistent with the desire to streamline the obligations placed on the public sector. It therefore makes sense that if compliance is to be reported on by an external reviewer, such as the AGW, for the external review report to be included with the annual report.

If the Welsh Government is contemplating a wider form of reporting on compliance with sustainable development, such as might require the regular reporting of certain specified measures (and we do not think this is the case from the consultation document), then we suggest that the Welsh Government reviews the equivalent reporting in relation to the Equality Act 2010 and the Welsh regulations made under that Act<sup>2</sup> (SI 2011/1064). SI 2011/1064 requires bodies to report, for example, workforce statistics in relation to protected characteristics (such as gender and disability) but leave it open as to the vehicle to be used, though the explanatory notes suggests that the annual report is expected to be used. If such a wider form of reporting is in contemplation, we should note that existing annual reporting arrangements are not the ideal vehicle. This is because annual reports are subject to such a variety of complex requirements that it is often difficult for anyone to establish a clear picture of performance.

Encouraging public bodies to follow the Global Reporting Initiative, Accounting for Sustainability (A4S) and the Integrated Reporting approach (of the International Integrated Reporting Committee) may help. Indeed, these may help improvement reporting in the context of sustainable development being the central organising principle in any event, as it should prevent unbalanced and disjointed reporting that may arise if, for example, SI 2011/1064 requirements are given undue prominence. We recognise, however, that a Welsh Government Sustainable Development Bill will not be able to amend HM Treasury reporting requirements.

### ***The organisations that might be subject to the duty***

**Q.24 Are there organisations on this list that should not be subject to the duty? Please explain.**

We do not consider that any of the organisations on the list should be omitted. As stated in the consultation document, placing a duty on public bodies is an approach that has been taken to advance policy outcomes in other areas. It has a number of practical advantages. However, from an efficiency and effectiveness perspective, consideration should also be given to ensuring that the legislation is as future proofed as possible. Focusing the duty entirely upon public bodies may not enable an agile and flexible response to public service delivery that could change radically, particularly as reductions in public expenditure continue. The Welsh Government may therefore wish to give some consideration to the duty applying to any person engaged in the provision of publicly funded functions and services. It may also

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<sup>2</sup> The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 (SI 2011/1064)

wish to consider how the legislation might reflect that sustainable procurement is a key delivery mechanism for establishing that sustainable development is the central organising principle of the public sector in Wales.

Consideration of impact and capacity is clearly informing the Government's decision on which bodies should be subject to the duty. A phased approach may therefore be appropriate with, in the first instance, the duty applying to organisations which have the most significant impact and influence in terms of policy, delivery, funding and regulation. However, as the Government's stated intent is to "legislate to make sustainable development the central organising principle of the Welsh Government and public bodies in Wales", it should be made clear that the duty will eventually apply to all public bodies in Wales. It should be made clear that bodies later in the phasing will be expected to use that time to prepare themselves. The AGW will need to liaise with audited and inspected bodies on the potential impact on current audit and inspection regimes. The AGW has already established a task and finish group to explore the potential implications of the Welsh Government's proposals.

**Q25. Are there organisations that are not listed above but which should be subject to the duty? Please explain.**

We note that para 118 of the consultation document says that there are some organisations whose roles are such that it may not be appropriate to subject their high level decisions to an sustainable development duty. It is our view that not making organisations with significant regulatory and advisory functions subject to the duty would risk building in conflicting priorities. We therefore suggest that Estyn, the Children's Commissioner and the Older People's Commissioner are covered by the duty.

***Defining sustainable development***

**Q.26 Are there other advantages or disadvantages to defining "sustainable development" and if so, what are they?**

The WAO reports of 2006 and 2010, as well as numerous other reviews and academic research highlight that understanding is a key prerequisite for effectively embedding sustainable development. A clear definition provides an anchor for the understanding of what embedding sustainable development in decision making means in practice. Our reports show that, for much of the last decade, the Welsh Government's ambitions for sustainable development were hampered by an elastic definition of sustainable development. The latest sustainable development scheme, *One Wales: One Planet* provides a clear definition and seeks to explain what it means in practice. Based on the evidence, defining sustainable development in relation to the duty, would be consistent with underpinning the government's intention.

**Q.27 If we were to define “sustainable development” do you think that the working definition above would be suitable and why?**

The definition in *One Wales: One Planet* has proved useful in clarifying the concept of sustainable development in relation to Wales. However, given the context in which the public sector is likely to be operating for the next decade, it may be prudent to consider revising the definition. Terms such as ‘enhancing’ and ‘better quality of life’ seem out of step with the current context. The following definition is suggested as a way of defining sustainable development in terms of the Welsh Government’s intentions, as stated in this consultation:

*Sustainable development means integrating the economic, social and environmental wellbeing of people and communities, and balancing the quality of life for our own and future generations in ways which:*

- *promote social justice and equality of opportunity;*
- *conserve our cultural and natural legacy; and*
- *improve the efficiency with which we use natural resources and reduce the adverse impact of our activities.*

***An independent sustainable development body (section 7) The purpose of the new body***

**Q.28 What should be the overall purpose for a new body?**

We generally agree with the Welsh Government proposals for a new sustainable development body to be focused on providing expert advice, guidance and challenge (in the form of a ‘critical friend’ role), while having the AGW undertake examinations of sustainable development. In our view, this fits well with the Welsh Government’s proposals to mainstream the scrutiny of the implementation of the sustainable development duty into the main audit and inspection functions of the AGW.

It should also be helpful in terms of economy and efficiency, as the work needed to undertake sustainable development duty scrutiny, such as the examination of annual plans, substantially overlaps with financial, vfm and improvement scrutiny. Having the same organisation undertake these tasks together will be more economic and efficient than having separate organisations undertake them. (Further details of how we see sustainable development duty scrutiny may usefully be done are at the annex.)

The challenge role (or advocacy/ombudsman/case work model) described in the consultation document is evidently designed to avoid unwarranted duplication and unjustified cost. We consider this prudent. We consider that it would be appropriate for the new body to work collaboratively with organisations where such a collaborative approach is reciprocated, but to have the ability of pursuing obstructive organisations through the courts in serious cases. We also consider it appropriate that this role in particular should fall to the new body rather than to the Welsh Government, as there would be little credibility in the Welsh Government having an advocacy role that may be “against itself”.

**Q.29 Do you have any views on the preferred approach regarding the main functions of a new body?**

The preferred approach of being predominantly focused on advocacy and providing expert advice and guidance, while drawing on scrutiny work of the AGW, seems appropriate, particularly for the reasons set out under Q28.

**Q.30 Are there significant disadvantages to establishing a new body on a statutory basis?**

We do not see any disadvantages that are significant in the context of the advantages outlined in the consultation document.

**Q.31 Do you agree with the proposed functions for a new body established on a statutory basis?**

Yes. The proposed functions should to be undertaken by a new body established on a statutory basis so as to help ensure their continued delivery. A statutory basis will help protect the independence of the new body and may also help bolster its credibility.

***Independence and accountability***

**Q.33 Do you have particular views on the independence of a new body?**

We agree with the view set out in the consultation document that the body should be independent of Government. Such independence should enhance the credibility of the body's advice and guidance.

To ensure independence from Government, the members of the new body should be appointed by the National Assembly rather than by the Welsh Ministers.

**Q.34. Do you have particular views on the accountability arrangements for a new body?**

We agree with the view set out in the consultation document that the body should operate transparently and be clearly accountable for its actions. To help with this, and to further protect its independence from Government, we suggest that the body should be called to account by an appropriate committee of the Assembly (to be decided by the Assembly), rather than held to account by the Welsh Ministers.

As the new body will be a body exercising public functions and will probably be funded by public money, we suggest that it is audited by the AGW.

## **Other**

Communication, engagement and securing ownership are key features of successful implementation of sustainable development. The Welsh Government should consider how it intends to subject its Regulatory Impact Assessment to external challenge from key external stakeholders.



## **Annex**

### **Outline of how the AGW (and other public sector auditors) may undertake sustainable development duty scrutiny**

If the preferred approach (i.e. a focus on higher level decisions etc, as set out at para 78 of the consultation document) proposed by the Welsh Government is pursued, then we suggest the following approach to scrutiny. In certain places, we refer to the “auditor”. For most public bodies, this will mean the AGW, but where bodies are still permitted to appoint their own auditors, to ensure consistent scrutiny, we suggest that the duties referred to apply to such auditors.

1. The auditor of a body subject to the sustainable development duty will have a duty to undertake a high level review of whether the sustainable development duty has been applied in higher-level decisions, in particular in its setting of long-term strategy, annual plan, annual corporate budget and key policies that govern how it is to deliver services or otherwise use public resources. Such a review would entail examination of the documents themselves, supplemented where necessary by examination of supporting records, such as records of public engagement, and interview (or survey) of relevant staff, users and stakeholders.
2. Having undertaken the high level review, the auditor will have a duty of providing a report on the review (a sustainable development compliance report) alongside or as part of his certificate/report on the accounts. In any event, the sustainable development compliance report should be subject to the same publication and consideration requirements as the certificate/report on the accounts. For example, for the Welsh Government, this will mean the sustainable development compliance report would be laid before the National Assembly. This would ensure sustainable development compliance reports are available for consideration by relevant Assembly committees, including PAC, councils and their scrutiny committees and the general public.
3. Also following the high level review, the auditor will have a duty of considering whether the review raises concerns about the body’s compliance with the sustainable development duty that merit further examination. Such examination could be pursued under AGW’s existing vfm examination and study functions, or the new legislation could provide specific sustainable development examination duties. (The AGW’s existing vfm examination and study functions do not, unfortunately, currently extend to individual education corporations, except by agreement. A sustainable development Bill might therefore usefully address that gap. If new specific sustainable development examination duties are pursued in the Bill, it may be helpful if these omitted the requirement for consultation with for example, associations of local government bodies, that are present in existing examination and study functions, so as to ensure significant issues are examined quickly.
4. The AGW may from time to time also undertake cross-cutting studies of sustainable development issues informed by work under 1 to 3 above, using existing examination and study powers. We envisage such studies might include periodic studies to summarise the results of all sustainable development review and examination work across all sectors.
5. Auditors would be under a duty to provide all sustainable development reports to the new sustainable development body for information. In absolute terms, this should not be

necessary as certified accounts of public bodies are already required to be published through laying or local authority publicity provisions. However, such a duty would make the task of the new body of tracking reports much easier and would therefore save time and expense.

6. The AGW will include in his code of audit practice prescription of the way in which auditors (including himself) are to carry out sustainable development duty scrutiny functions.

# Proposals for a Sustainable Development Bill

*RSPB Cymru Response*  
18 July 2012



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**For further information, please contact:**

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**OVERVIEW & SUMMARY OF RSPB COMMENTS:**

The Bill must contain a **strong legal definition of sustainable development (SD)** rather than leaving interpretation open as is the current situation. The definition must be meaningful enough to drive effective action and to take a long-term view. **The legal definition of SD and the corresponding SD duty must acknowledge that environmental sustainability underpins and is a precursor to social and economic sustainability, and hence to achieving SD.** Accordingly, the definition and the duty must include the protection and enhancement of biodiversity, in addition to other environmental objectives and social and economic aspects.

The **sustainable development duty must be a strong, proactive and meaningful duty** if real change is to be achieved that protects and enhances biodiversity for its intrinsic value, as well as part of other environmental goals, ecosystem services and social and economic objectives, as recognised under the 1992 Rio summit.

One of the main outcomes of the SD Act should be **no net loss of biodiversity** and consequently the Government and the public sector must make decisions that **enhance the natural environment and respect its limits while using only Wales's fair share of the earth's resources.**

The **duty needs to apply to all organisations delivering public services** not just public bodies – from the Welsh Assembly and all branches of Welsh Government, to those carrying out public functions or operations funded with public money.

The **duty must apply to all WG decision-making** – from policy making, regulation, guidance, land management grants and operation of government bodies.

The duty must also **include decisions with an international dimension**, i.e. the implications of Welsh sustainable development policy do not end in Wales, but rather extend globally, for example, carbon emissions from products and services generated outside Wales, but then imported for Welsh consumption.

We **support for the establishment of a new SD Body** with a statutory basis, that provides expert advice and guidance, that advocates and champions SD. However, as part of its role, it should also include a much clearer remit for challenge, reporting

and providing recommendations to the Welsh Assembly as well as the Welsh Government.

Following the Rio+20 summit, it is **important that the Welsh SD Bill builds on Rio+20 agreements and incorporates ways to deliver global goals** (e.g. Sustainable Development Goals) in Wales – at the national, regional and local scale.

There needs to be **coherence between the various pieces of legislation that Welsh Government are currently developing**, i.e. the proposed Planning Bill and SD Bill should work together to provide the necessary mechanisms to support coherence and consistency between policies affecting land use in and outside Wales and the right framework to deliver the objectives of the proposed Environment Bill.

### CONSULTATION QUESTIONS

#### *Promoting sustainable development (section 3)*

##### *Q.1 What are the principal barriers you face to taking more long-term, joined-up decisions?*

Taking this as a question applying to those that the proposed Bill will apply to rather than to RSPB Cymru, there are a number of barriers that we see to long term, joined up decisions and policy making in the state and public sector. These include:

- Lack of longer-term leadership;
- Decision-making not derived within the context of a vision of sustainable development/sustainable development objectives;
- Lack of robust scrutiny and accountability arrangements;
- Lack of common definition of SD leading to inconsistent interpretation and weak delivery on the ground
- Consideration being limited to the current political term;
- Dependence on short-term funding cycles;
- Short-term economic costs and benefits outweighing long-term benefits or costs;
- Lack of a sustainable development culture and awareness.

##### *Q. 2 What actions need to be taken, and by who, to reduce or remove these barriers?*

There needs to be stronger leadership from Welsh Government and then down through the public sector decision-making hierarchy and operations. As Welsh Government sets much of the agenda, they have both the responsibility and the opportunity to influence the move to a longer-term, more joined up decision-making approach, particularly ensuring against conflicting decisions/policies coming out of and within Government. As part of that leadership role, WG must also ensure that funding also takes a longer-term view and is more joined up, i.e. supports projects that will help deliver the more sustainable outcomes we all want to see. This is not to detract from progress and good-practice since the 1992 Rio summit, including Local Agenda 21 in local authorities, bottom-up approaches rather than top down, and what business, communities and the environment sector have done as well as through Government regulation and policy. However, if WG wants SD to be its central organising principle then the onus lies with them to take leadership.

For greater understanding of the importance of biodiversity, nature conservation must be integrated with concerns about wider ecosystem health and human wellbeing. Biodiversity concerns need to be mainstreamed within other societal goals for progress and development under the SD banner. The RSPB has for many years sought to address the drivers of biodiversity loss predominantly through climate change advocacy and ecosystem service research, but have also had reasonable results through planning, economics and development work. Opportunities for mainstreaming biodiversity have exploded in recent years – from the various Natural Capital processes, MEA, Stern, TEEB, GDP+, SDGs, well-being indicators and now the green economy agenda. For RSPB Cymru, part of it is about communicating the wellbeing enhancements and economic benefits of our conservation delivery programmes, e.g. our landscape scale conservation programme, Futurescapes, which we see as potentially providing enhanced wellbeing and a sustainable future for people as well as wildlife.

The RSPB has produced a report, *Think Nature*<sup>1</sup>, which proposes a practical framework, based upon ten core principles, which, if adopted as a package, would support the integration of environmental protection in policies and decisions at all levels and help us live within environmental limits. These principles are applicable to the discussion within this consultation document, however, while the principles are relevant to a number of questions, particularly those on the SD factors, for clarity, we have presented them together here. We hope these principles would be reflected in the new arrangements for sustainable development in Wales.

**Key principles to help us live within environmental limits (taken from Think Nature, RSPB):**

*1. Environmental limits should be defined*

Governments have tended to define environmental limits in targets and laws set to safeguard the natural environment at different geographical levels. (see *Think Nature*, Principle 1 for example of targets). These targets provide a focus for action and provide a useful reference point to assess government progress. These targets should be core to our ambition to live within environmental limits.

*2. Living within environmental limits should be core to governmental strategy*

Public bodies and all parts of government need clear direction. They should be charged with living within environmental limits in the context of sustainable development. While there are merits in enshrining this in law in a consistent fashion, living within environmental limits requires more than a duty and will need to be complemented by the other tools and principles described below.

*3. Decision-making should be informed by sound science*

Decisions should be made based on evidence where possible. Sound science is the basis for informed decision-making. Science matters, should be invested in and should inform policy-making. If decision-makers do not understand how policies will affect the natural environment, they should adopt the precautionary approach and invest in further research. Policies that risk causing irreversible environmental damages should not be put into place until it can be demonstrated that the risks can be mitigated or avoided.

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<sup>1</sup> [http://www.rspb.org.uk/Images/thinknature\\_tcm9-218670.pdf](http://www.rspb.org.uk/Images/thinknature_tcm9-218670.pdf)

#### *4. Policy making should be coherent and consistent*

The Government put in place the necessary mechanisms to ensure the coherence of its policy agendas. Incoherent and inconsistent government policies can confuse and disempower the public. Arguing for a low carbon economy on the one hand while looking a new motorway building does not send the right signals to business and individuals. Policies and funding streams across government should work together to enable us to live within environmental limits

#### *5. Government should play a leadership role and demonstrate best practice*

Responsibility for SD should be shared by all, but overseen at the highest level. Politicians should clearly communicate the scale of the challenge, and explain the nature of policy reform and behavioural change required to live within agreed targets. There needs to be stronger leadership from Welsh Government and then down through the public sector decision-making hierarchy. As Welsh Government sets much of the agenda, they have both the responsibility and the opportunity to influence the move to a longer-term, more joined up decision-making approach, particularly ensuring against conflicting decisions/policies coming out of Government. As part of that leadership role, WG must also ensure that funding also takes a longer-term view and is more joined up, i.e. supports projects that will help deliver the more sustainable outcomes we all want to see. While we have ambitious targets to reduce greenhouse gas emissions, we need a similarly diligent approach to meet or exceed their natural environment targets. WG could show leadership on their land estates, by establishing targets for suitable operations on its estate which include contributing towards relevant biodiversity targets. .

#### *6. Public participation should be core to decision-making*

Increased civic engagement and participation of environment stakeholders will help improve the quality, relevance and effectiveness of government policies and ensure that socio-environmental concerns are addressed alongside economic issues. An inclusive approach is likely to create more confidence in the policies and decisions, and in the institutions that develop and deliver them.

#### *7. Monitoring progress should include indicators of wellbeing*

There seems to be growing consensus that GDP is too crude a measure of prosperity, ignoring as it does wealth distribution and social equality. Alternative indicators of wellbeing, which assess whether we are living within environmental limits, should be adopted instead. Monitoring arrangements are essential for adaptive policy-making. SDC report (*Governing for the Future: The opportunities for mainstreaming sustainable development*): the Government will need to have an agreed holistic set of standards, indicators, targets and explicit goals against which it, and others can measure impacts, performance and progress towards agreed pan-government outcomes.

#### *8. Scrutiny and accountability arrangements should have teeth*

Unless public authorities are called to account for their failure to meet environmental targets or commitments our aspirations to live within environmental limits will be compromised. Monitoring, reporting and scrutiny powers for socio-environmental issues need to be robust to change management culture. Scrutiny of government performance should focus on the coherence of government's policy agenda rather than purely on their operational performance. Scrutiny should highlight inconsistencies between policies across government. Every government needs a constructive critic capable of giving truth to power. We need strong, independent champions of the environment and sustainable development to ensure transparency and accountability, such as the new Natural Resources Body for Wales and independent SD body. If well resourced and properly mandated, these agencies can report on the state of the natural world, assess government performance; advise central government to influence change in policy and legislation; and act as a focus for public concern. The roles of the SD body and Natural Resources Body for Wales should be complementary.

9. *The true value of the natural environment should be assessed and taken into account when developing and implementing policies*

We must improve our understanding of the services that nature gives us, where possible improving our understanding of their value and reflecting these values in decision-making. Valuation is unlikely to be a panacea, as it is impossible to put a price on everything that nature gives us and all aspects of biodiversity (what price a lapwing?), but it can certainly help.

10. *Government should be prepared to intervene through fiscal, policy and legislative reform*

It is an inconvenient truth that no environmental problem has ever been solved through voluntary means alone. Governments should be prepared to deploy the right mix of regulation and incentives. Without this, we will continue to bear the costs of greed and short-term thinking, and will increasingly suffer the impacts of failing to live within our environmental limits.

#### *Education:*

Education for sustainable development must be reviewed and significantly expanded across society; this should apply especially to people in their places of work.

The embedding and development of Education for Sustainable Development and Global Citizenship (ESDGC) as a means to promote Sustainable Development (SD) to as wide an audience as possible should be listed as a core objective in the SD Bill. In fact, perhaps Section 3 (approach to promoting sustainable development), the 4-E approach to behaviour change should be changed to 5-E, with the addition of 'Education' (ESDGC).

Education, particularly Out-of-Classroom Learning and outdoor education, plays an essential role in increasing public knowledge and understanding of the natural environment and encourages engagement in conservation and the adoption of more sustainable lifestyles.

The important role of Out-of-Classroom Learning in relation to ESDGC was recognised in the ESDGC Action Plan (DCELLS, 2006):

*“education activities such as offering first hand experiences of the natural world, residential visits and practical action bring ESDGC to life and embed the knowledge, attitudes and skills that are integral to ESDGC. Opportunities for Out-of-Classroom Learning are essential as they offer pupils an opportunity to investigate complex issues, resolve problems and gain experience of real world situations” (WAG, 2006)*

Another key document, *Out of Classroom Learning – Making the most of first hand experiences of the natural environment* (WAG, 2007), highlights the valuable contribution Out-of-Classroom Learning can make to ESDGC by:

*“Providing a link between the theoretical aspects of ESDGC and the reality of the issues that affect our future lifestyles and the natural world around us. The outdoor environment provides a very powerful medium for getting beyond facts and figures”*

There are two principal barriers that providers of ESDGC face in taking more long-term, joined up decisions. One is that at present there does not appear to be the designated and

discreet leadership in the Department for Education and Skills (DfES) for ESDGC that was provided by the ESDGC Champion up to 2010, and secondly funding for the development of ESDGC has since been greatly reduced. WG has the power and means to reduce or remove these barriers. Principal responsibility for leading ESDGC has passed to at least three officers in DfES since 2010, at least one of whom has shared the responsibility part-time with other responsibilities. ESDGC should be the clear responsibility of one post in DfES and the provision of adequate funding for the development of it should be restored.

With regard to evidence of progress in relation to making SD the central organising principle of public bodies, in the case of Estyn there is some evidence, but we feel that it does not go far enough. Estyn inspections give credit to education sectors and institutions that demonstrate evidence of their implementation and development of ESDGC, but we would like to see mandatory inspections of ESDGC that follow specific quality criteria for real world learning. SD and the teaching of ESDGC should be embedded and budgeted for in all publicly-funded education sectors, for which there is a full range of common understanding and guidance documents published by DfES.

*Evidence in relation to sustainable development (section 4)*

*Q.3 What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?*

The fact that we are failing to make progress against our environmental targets is a clear sign that we are living unsustainably. Biodiversity loss continues, habitats fragmented, emissions.

It would be helpful to have publically available assessments of where and why the state and public sector is failing to achieve SD to date to allow stakeholders and citizens to understand the reasons for failure and to allow us all to learn from past mistakes and avoid previous poor practice<sup>2</sup>.

*A new sustainable development duty (section 6)*

*The level of decision making to which the duty applies*

*Q.4 Have we identified the most appropriate level of organisational decision-making at which the duty should be applied? Please explain.*

We welcome the duty applying to all high level decisions. However, we would question whether this automatically means that all decisions under the high level ones are also consistent with the duty. Mechanisms will need to be put in place to ensure that all lower level decisions support higher level decisions and objectives. While it is highly likely that proactive action will be needed within each state and public sector body to monitor and ensure that this duty does filter down to lower level decisions, otherwise it will be business

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<sup>2</sup> E.g. SDC (March 2011) *Governing for the Future: The opportunities for mainstreaming sustainable development*. [http://www.sd-commission.org.uk/data/files/publications/SDC\\_SD\\_Guide\\_2011\\_2.pdf](http://www.sd-commission.org.uk/data/files/publications/SDC_SD_Guide_2011_2.pdf)



as usual. Sustainable development needs to become fully embedded in organisational culture.

***Q.5 Would this approach risk capturing some decisions which should not be subject to the duty? What would these be?***

The SD duty should apply to all state and public sector decision-making and operations. Where any decisions are exempted from the SD duty, a rationale must be provided by WG.

The SD duty should improve delivery of the main purpose or duties of the individual state and public bodies, and not detract from or conflict with. Consequently, the SD duty should apply in relation to “the exercise of their functions”, i.e. so that the SD duty improves the sustainability of the decision-making of a public or state body and government department but without compromising or conflicting with the primary functions. For example, in the future, the new single body will need to consider the social and economic aspects of its decision-making but ensure that this does not hamper the delivery of its primary duty to protect and enhance the environment; while the NHS must still make health and well-being their primary consideration in decision-making but in doing so they will in the future aim to make their decisions more environmentally friendly and economically sound

***Q.6 Are there any decisions that are not captured by this approach which should be subject to the duty? Again, what would these be?***

On the whole, because the duty is to apply to the public sector it has greater influence on environmental and social decision-making but very little on business (i.e. economic) decisions apart from through relevant Government Departmental decisions and policy development (e.g. Business, Enterprise, Technology and Science).

There is consequently a role for WG to encourage greater SD culture in those bodies not subject to the duty.

***Q.7 Should we include decisions which govern an organisation's internal operations? If so, which internal operations should we include?***

We believe that internal decisions should be included if public and state bodies are to make more sustainable decisions in the future and be more sustainable bodies in themselves. The duty must cover all their powers and functions across all their operations, including regulation, land and property acquisition, disposals and management, partnership working and leasing, grant giving and advice. A particularly important example of internal decisions that should be covered is procurement decisions, i.e. all public and state bodies (including Government and Ministers) should make sustainable procurement decisions and choices.

All staff within an organisation should be educated in the basic principles of sustainable development and how to apply them.

***Q.8 Should budget proposals be subject to the duty? Please explain.***

We are very strongly of the view that the SD duty should apply to capital and revenue budget decisions at all management and operational levels. The budget of each public and state body and government department provides the finances to deliver the other decisions of that public or state body or department. If the budget is not covered by the same SD duty as other decisions, conflicts could arise between decisions internally or budget not being made available to fund a sustainable option.

Furthermore, if the WG budget was subject to the duty it should aid the elimination of perverse subsidies.

***The behaviours approach***

***Q.9 Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking? Please explain.***

With caveats, we welcome the behaviours identified in principle. We believe that they form the minimum requirements for achieving more sustainable behaviours and outcomes. However, there are some alterations and additions needed to improve the suggestions.

1. *Long-term thinking*: we disagree that “cost-effectiveness” is a true long-term behaviour. Firstly, not all benefits can be assessed in monetary terms thus making it difficult to assess the cost-effectiveness of a behaviour. Some costs are not taken into account or are hard to quantify (such as diffuse pollution or loss of ecosystem services. Secondly, and possibly more importantly, a behaviour (or decision) that is cost-effective may not always be the best option, particularly in the long-term. Therefore, we would recommend referring to “best value (for money or other benefits)” instead as this is less focussed on pure costs and gives greater weight to a range of values.

We note that the Minister for Environment & Sustainable Development makes much the same point in his pre-Rio+20 press release<sup>3</sup>:

*“[Sustainability] means that when we are faced with difficult choices, we choose the option that is best for the long term future of Wales, rather than the option that is quickest, easiest or cheapest.”*

2. *Integration*: should look for genuine win-win solutions rather than trade-offs or balancing (e.g. short-term *versus* long-term) objectives.
3. *Working across organisational boundaries*: This behaviour should cover more than just organisational boundaries, but also boundaries between internal departments/sections of Government and public bodies. In addition, to really take a wider view, it needs to

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<sup>3</sup> ‘Minister showcases sustainable Welsh policies to a worldwide audience’, Friday 15 June 2012 – <http://wales.gov.uk/newsroom/sustainabledevelopment/2012/120615worldwideaudience/?lang=en>

cover global effects and work across administrative boundaries (e.g. ranging from across local authority boundaries, to between the countries of the UK, the EU and further).

4. *Focus on prevention*: This behaviour must also include the precautionary principle, as it is one route to preventing damage in the first place (see response to Q10). As with the first behaviour ('long term thinking'), the focus should be on best value options/decisions and more efficient approaches rather than "cost-savings" alone.
5. *Engagement & involvement*: This behaviour should also include awareness raising and education (both through and outside of the schools system). As important as involving stakeholders is the level of influence that they will have over decisions.

***Q.10 Are there critical behaviours that we have not identified? Please explain.***

The precautionary principle – is an important element of prevention (Behaviour 4) as it helps deal with uncertainty. By taking a precautionary approach, decision-makers aim to avoid or minimise damage before it occurs, particularly in situations where they lack complete knowledge. Furthermore, the precautionary principle is a legal EU requirement, it is one of the factors included within the shared UK Sustainable Development Strategy, *Securing the Future*, and is included in the Environment Strategy Wales.

***Q.11 What are the advantages and disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?***

Firstly, we would note that we favour a combined approach (see our response to Q16).

The advantages of designating behaviours as SD factors include the creation of a way of decision-making and hence operation that public bodies and the state must follow. Behavioural change is needed to achieve SD and this approach clarifies those behaviours that are required of decision-makers in the future.

The disadvantage is that behaviours will be difficult to monitor, measure or assess or change.

*Q.12 How much influence should sustainable development behaviours have over high level decisions – for example, should those decisions be lawful if they have been reached in a way that:*

- *is consistent with one, some or all of the behaviours;*
- *broadly reflects the behaviours;*
- *is not inconsistent with the behaviours?*
- *are there other options?*

Option 4, another option – if WG is serious about achieving SD then all high level decisions must reflect all of the behaviours (assuming they are improved based on our comments, above, Q9), rather than broadly reflect, as in option 2 and rather than one or some behaviours, as in option 1. SD requires all the behaviours to be considered together rather than cherry picking the easiest behaviours. We are concerned that WG are even considering so many weak options if the ambition is to achieve a culture change.

This approach will also need to be able to show when SD behaviours have not been influential and what that means, i.e. what is the penalty.

#### *The objectives approach*

*Q.13 Are there core sustainable development objectives we have not identified above?*

The proposed SD objectives (para 92) are incredibly weak and vague, e.g. many stating that something “should be promoted” rather than “must be achieved”. If progress towards achieving objectives is to be assessed, then the SD objectives will need to be much stronger and clearer.

It is not clear why a new set of SD objectives have been produced (para 92) rather than using the outcomes in paragraph 13 which better reflects the existing agreed outcomes in the SD Scheme, *One Wales: One Planet*. Though the *One Wales: One Planet* version would also need further detail. We find it confusing to have a set of SD objectives that is similar yet slightly different to the existing set of SD outcomes ones in *One Wales: One Planet*. The existing SD outcomes have the additional advantage of including sustainable resource use which is missing from the proposed SD objectives.

We are strongly of the view that there needs to be an additional SD objective reflecting the new international biodiversity target of halting the loss of and restoring biodiversity by 2020. Enactment of this legislation must ensure that there is no net loss of biodiversity as a result, and we see this as one of the indicators that SD is being achieved.

The SD objectives will also need to clarify how they relate to existing policies and targets, e.g. targets for CO2 reduction or for protected sites to be in favourable conservation status, etc. This relationship needs to be explained to give the SD objectives substance and to provide more detail on how they are to be achieved. Where possible, using existing targets to measure achievement of SD would be preferable to creating a new suite of indicators.

However, may be a need for specific new indicators, such as, indicators gauging progress with resource efficiency which link the environmental consequences of economic activity, e.g. material usage relative to GDP, etc. There is also the opportunity to set objectives that reflect the post-Rio+20 agreement in broader measures of national progress, i.e. beyond GDP and including natural and social capital, and reporting on the sustainability performance of business.

***Q.14 What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?***

One advantage is that in addition to behaviours (i.e. the process objectives), it is helpful to have ends objectives to measure progress and success (or failure) against.

***Q.15 How much influence should the objectives have over high level decisions – for example, should those decisions be lawful:***

- *only if they actively contribute to one or more of those objectives;*
- *if they do not detract from any of the objectives;*
- *even if they detract from some of those objectives, as long as they actively promote others?*
- *are there other options?*

Option 4, another option, combining option 1 and 2 (based on much stronger objectives rather than the current weak set) – to be sustainable, decisions must actively contribute to one or more objectives (option 1) but without detracting from any of the other objectives (option 2), using the precautionary principle were necessary – is the minimum option that we could support. We thoroughly reject option 3 on the basis that it allows decision-making to be considered lawful even where it has detracted from some of the SD objectives.

***The combined approach***

***Q.16 What are the advantages and disadvantages of basing a duty on sustainable development behaviours and sustainable development objectives?***

RSPB Cymru supports a combined approach as it has the advantage of bringing together process, through the use of behaviours, and outcomes (objectives).

The behaviours and objectives need to deliver the new duty based on a strong definition of SD.

***A single sustainable development proposition***

***Q.17 What are your views on basing a duty around a single sustainable development proposition?***

It is understandable to desire a short and simple explanation for SD, however, the SD proposition put forward in paragraph 97 is too vague on its own to base the SD duty on, and consequently would need further expansion/explanation and detail to clarify its intentions. In addition, the proposed SD proposition focussing on 'well-being' could be misinterpreted in the future as being purely people-centric, i.e. well-being should also consider the well-being of the planet and the other species we share it with. If used, 'well-being' would need further and stronger definition. **However, we are of the view that well-being is an outcome of achieving SD rather than the achievement of SD itself.** Well-being is subjective, for example, to some two cars and a satellite TV might be considered essential to their well-being while to another it may be living away from traffic noise and street lights and another their well-being may depend on the fact that their Council or local charity can continue to deliver their main meal every day. And for the same reasons, well-being does not always equate to SD. However, achieving SD should improve well-being across society in a more equitable way.

RSPB Cymru's preference for the SD proposition/definition would be a variation on the existing definition of SD set out in the SD Scheme, *One Wales: One Plant*. While longer, it has the advantage of being much clearer about what SD means (see our response to Q26).

The SD duty itself should be a strong, proactive duty – requiring public bodies to exercise their functions to contribute to achieving SD; and requiring WG to exercise their functions to achieve SD. Individual public bodies will not be able to achieve SD on their own, but should by the exercise of their functions, contribute to SD. However, WG has a much stronger cross-cutting and cross-sectoral role and consequently should be obliged to achieve SD.

#### *The time organisations may need to comply*

##### *Q.18 How much time should organisations be given to make these changes?*

A deadline needs to be set by which public bodies have achieved SD. The original SD Scheme set out to achieve SD within a generation and the Environment Strategy Wales (ESW) has a target date of 2026 for its vision, so we would suggest 2026 is a reasonable target date for achieving SD if WG is to also meet the ESW target. However, we will need milestones between now and then to measure progress and which make the linkages with other policies and targets, e.g. 2016 for the completion of programmes of measures under the EU MSFD; 2020 for a reduction of Welsh carbon emissions by 40% from 1990 levels. An obvious milestone will be whether Wales meets the EU and International target to halt and reverse the loss of biodiversity by 2020, as without a healthy, functioning, biologically diverse natural environment, SD will not be achieved.

Furthermore, it should be much easier for the public sector to change behaviours, so rather than waiting until 2026, there should be a milestone that SD behaviours will be fully implemented within 3 years at the latest, of the legislation being enacted and coming into force.

#### *The provision of guidance*

***Q.19 Would it be helpful to issue formal guidance to organisations subject to the new duty?***

Yes, following public consultation.

***Q.20 Should any such guidance be issued by the Welsh Government or the new sustainable development body?***

The guidance should be issued by the new SD Body and should apply to WG as well as public bodies. This guidance should be statutory. The statutory guidance should encompass a delivery strategy determining how the SD duty is to be implemented and this should be a priority for the new SD body to produce.

#### ***The repeal of duties***

***Q.21 Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?***

RSPB Cymru would advise extreme caution with respect to the repeal of existing duties. Existing duties require specific action or direct a public body or bodies in a specific way, which a general SD duty is highly unlikely to be able to do.

We would like greater clarity about the relationship between the SD duty and existing duties.

***Q.22 Are there legal barriers to delivering in line with the sustainable development factors we have set out, which the Sustainable Development Bill could remove?***

No comment.

#### ***Reporting***

***Q.23 Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?***

Yes, as long as it is clear within the report which aspects apply to the duty.

#### ***The organisations that might be subject to the duty***

***Q.24 Are there organisations on this list that should not be subject to the duty? Please explain.***

We would like confirmation that the SD duty will apply to the Government and the State as well all aspects of the State, in addition to public bodies. We make this request for clarification as the term public body has only limited application, while the list includes a range of organisations which we agree should be covered by the duty.

We are making the assumption that the duty will apply to all public and State bodies with respect to the exercise of their functions to ensure that it will improve the delivery of their primary purpose and duties and not detract from or conflict with them.

*Q.25 Are there organisations that are not listed above but which should be subject to the duty? Please explain.*

As referred to in Q24, the SD duty must apply to the State as well as public bodies, including all aspects of Government, i.e. all Government Departments, Ministers and the Welsh Assembly. In addition, it needs to apply to all State bodies and organisations who are delivering public services (as stated in para 71 of the consultation), and not be limited to just public bodies. Therefore, examples of bodies not currently included in the list include, *inter alia*: the police; customs; DVLA; managers of State land/estate; water companies; etc. Furthermore, the duty should apply to those making decisions regarding activities/projects for which public funding has been provided. Finally, consideration needs to be given to how the duty is to apply to those UK bodies active in Wales, such as the DECC, MoD, Crown Estate, Network Rail, etc, particularly where they are carrying out reserved functions.

We would note again that, apart from WG, the duty has no direct impact on business (i.e. economic) decisions. However, we are unaware of the existence of any relevant public body to cover this gap. However, the Bill could include a requirement for WG to encourage others to be compliant with the duty.

#### *Defining sustainable development*

*Q.26 Are there other advantages or disadvantages to defining “sustainable development” and if so, what are they?*

RSPB Cymru is of the view that SD must be defined clearly and strongly in legislation, and our preference would be for that definition to be on the face of the future SD Bill. The advantage of legally defining SD is that it will be less equivocal and less likely to be open to interpretation and provide greater consistency in policy making. The result should be that it sets a clear direction and consistency for SD in relation to decision-making by and across public bodies and the state and enable long-term decision-making.

As stated already, (see Q17) it is our view that well-being is an outcome of achieving SD rather than the achievement of SD itself. In addition well-being does not always equate to SD, because it is a subjective measure. For example, well-being to one sector of society may mean more material goods while to another it may mean continued free health care. Consequently, if the term ‘well-being’ is included as a proxy for SD, it also will need defining in legislation to ensure that it is clear that well-being is dependent on a healthy, functioning and biologically diverse natural environment and that well-being applies to all species not just humans.

*Q.27 If we were to define “sustainable development” do you think that the working definition above would be suitable and why?*



Defining SD is essential if we are to move forward from the current situation where there are numerous interpretations of SD.

While this is a reasonable definition, we believe the following reordered and slightly amended version of the *One Wales: One Planet* version adds clarity and supports our view that environmental sustainability is the precursor to social and economic sustainability and to achieving SD and ultimately a better quality of life and well-being for humans and the wildlife of our planet.

**RSPB Cymru suggested SD definition:**

“Sustainable development means managing and conserving the earth’s natural and physical resources in ways that ensure the future for people, communities and biodiversity.

This will be achieved in ways which:

- Promote social justice and equality of opportunity, ensuring the economic, social and environmental wellbeing of people; and
- Enhance the natural and cultural environment and respect its capacity limits, using only our fair per capita share of the earth’s resources and maintaining our cultural legacy”

We believe that this version is closer to the Environment & Sustainable Development Minister’s intentions for the SD Bill – with two central themes: social justice and reducing resource use, i.e. to:

*“become a one planet nation in a way that makes us a fairer and more just society”<sup>4</sup>*

The Environment Strategy Wales contains a number of important statements about the intrinsic value of the natural environment and its role in underpinning human health, our economy and our quality of life (Ministerial Foreword, ESW, by the current First Minister, Carwyn Jones AM) – i.e. all the elements that we want to improve by achieving SD. The intrinsic value and central importance of biodiversity in maintaining healthy ecosystems and WG’s move to an ecosystem approach, was reiterated in the Minister’s pre-scrutiny paper to the Environment & Sustainability Committee<sup>5</sup>.

Furthermore, the shared UK Sustainable Development Strategy, *Securing the Future*, supports the view that environmental aims (and social aims) will only be achieved if action is taken to move to an economy that is sustainable, i.e.

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<sup>4</sup> Paper provided to the Environment & Sustainability Committee prior to Scrutiny of the Minister for Environment & Sustainable Development. 27 June 2012; E&S(4)-19-12 paper 1, para 32.

<http://www.senedd.assemblywales.org/ieIssueDetails.aspx?IIId=1632&Opt=3>

<sup>5</sup> Ditto, para 39-40.

“We want to achieve our goals of living within environmental limits and a just society, and we will do it by means of a sustainable economy, good governance, and sound science.”

*An independent sustainable development body (section 7)*

*The purpose of the new body*

*Q.28 What should be the overall purpose for a new body?*

It is our view that the purpose of the new SD Body must be:

“To promote understanding of sustainable development and to support and foster it within Wales, and in doing so, enhance the social, environmental and economic well-being of current and future generations of both people and wildlife. To this end, the new body will advise and recommend to the Welsh Government a strategy for delivering SD, and monitor and report upon its implementation.”

This version makes a clearer distinction between the achievement of SD and consequently the improved well-being rather than implying that they are the same thing. To further improve clarity, well-being would also need to be defined.

However, the purpose of the new SD Body will be dependent on the definition of SD provided in the SD Bill, as well as the SD duty itself.

*The preferred approach for the new body*

*Q.29 Do you have any views on the preferred approach regarding the main functions of a new body?*

We support the preferred approach, in principle, i.e. we welcome a new SD Body that provides expert advice and guidance, that advocates and champions SD, that encourages behaviour change, while the Ombudsman role is taken on by the Public Services Ombudsman and the scrutiny role is carried out by the Auditor General for Wales (AGW). However, we would want the new SD Body to include as part of its role a much clearer remit for challenge, reporting and providing recommendations than currently suggested. Where the SD Body provides recommendations, public bodies should be required to implement them where possible. A further role for the new SD Body would be undertake the intellectual thinking about and around SD in the form of a research and development role. There will need to be joint working, cooperation and cohesion between the new single body (Natural Resources Body for Wales), the Climate Change Commission, the new SD body and the body responsible for scrutinising policy.

Regarding the scrutiny role, we are assuming that no decision will be made on the AGW's role regarding SD until after the responses to this consultation have been fully reviewed as otherwise a decision would pre-empt the conclusion of this consultation question.

Finally, it is unclear who will be undertaking the enforcement role.



*A statutory body*

*Q.30 Are there significant disadvantages to establishing a new body on a statutory basis?*

No, the new SD Body must be a statutory body if it and its decisions are to carry any weight.

*Proposed functions for the new body*

*Q.31 Do you agree with the proposed functions for a new body established on a statutory basis?*

Not completely, as we believe that there are some omissions and some of the functions need strengthening (see also response to Q29). Under this question we consider all the functions outlined in paragraphs 165 and 166 together, as they are all relevant for the new SD Body.

para 165, 2<sup>nd</sup> bullet – we are of the opinion that the SD Body should produce a regular (rather than periodic) ‘Sustainable Development report’ rather than a ‘Well-being report’ as suggested, as we view improved well-being as the result of achieving SD rather than achievement in itself.

para 165, 2<sup>nd</sup> & 3<sup>rd</sup> bullets – there should be an additional function requiring the SD Body to carry out a regular overall assessment of progress towards SD, gaps and failures, etc in addition to assessments of individual bodies subject to the duty

para 165, 4<sup>th</sup> bullet – this needs to be strengthened to allow the SD Body to challenge and provide formal recommendations, rather than simply ‘representations’.

Para 166, 3<sup>rd</sup> bullet – as above, this needs to be strengthened to allow the SD Body to provide formal recommendations on anything it sees fit, and not be limited to recommendations to removing barriers to achieving SD.

*Q. 32 Are there other functions which should be considered?*

Yes, additional functions include:

- Power to require the AGW to scrutinise specific bodies or Welsh Government or WG Departments.

- Requirement to produce statutory guidance (including an implementation or delivery strategy) on how SD should be achieved.

*Independence and accountability*

*Q.33 Do you have particular views on the independence of a new body?*

RSPB Cymru are of the view that the new SD Body must be independent from WG, thus allowing it to freely give advice, provide recommendations and where necessary challenge

WG and individual WG departments. Where the new SD Body provides recommendations, WG and other public bodies must be under an obligation to at least aim to implement those recommendations.

*Q.34. Do you have particular views on the accountability arrangements for a new body?*

Obviously the new SD Body must be open, transparent and accountable, however, the consultation document does not provide any detail on how this will be achieved.

# Welsh Government consultation Proposals for a Sustainable Development Bill



## Response from the Higher Education Academy July 2012

**Contact:** Simon Kemp, Academic Lead (Education for Sustainable Development),  
simon.kemp@heacademy.ac.uk

The Higher Education Academy (HEA) champions excellence in learning and teaching in higher education. It is committed to improving the student learning experience by raising the status of teaching, adding to the body of knowledge relating to pedagogy, enhancing professional teaching practice, and facilitating networks and communities of practice. The HEA works in partnership with institutions, student bodies, academic and professional staff, and sector agencies and funders.

The HEA has been working with the UK higher education sector on Education for Sustainable Development (ESD) since 2005. Its work on ESD helps institutions and subject communities develop curricula and pedagogy that will give students the skill and knowledge to live and work sustainably.

The HEA welcomes the opportunity to respond to this important consultation. The HEA's response primarily addresses the overall consultation document rather than the individual questions listed on pages 53 to 56. Brief responses to some of the specific consultation questions are provided at the end of the HEA's substantive response.

The HEA believes that the consultation document is a welcome contribution to the political pursuit of sustainable development. The HEA notes that Wales is recognised in the higher education (HE) sector as a leader in sustainable development policy and practice. This should be highlighted and celebrated in the Bill and its launch if implemented.

The HEA supports the primary purpose of the Bill to make sustainable development the central organising principle of the Welsh Government and Welsh public bodies. This is an admirable and adventurous policy approach which will be widely applauded across the sustainable development community – and for HE in particular, the ESD community.

The HEA is disappointed at the paucity of education within the document given the widespread recognition of the importance of education to the achievement of sustainable development. For example, the current United Nations Decade of Education for Sustainable Development is a demonstration of the importance placed on education by the UN through the work of UNESCO.

Education is addressed in the consultation document in terms of safety and health, but there is no mention of the value of primary, secondary or tertiary education for sustainable development. This is a disappointing reversal considering the leadership offered by the Welsh Government in 2006 through the publication of 'Education for Sustainable Development and Global Citizenship – a strategy for action', its 2008 update, and the inclusion of ESDGC in the school curriculum. In relation to this latter work, the HEA has facilitated the ESDGC working group which has expert input from ESD academic researchers and practitioners from each Welsh University<sup>1</sup>. Policy initiatives such as these have led to the Welsh Government being hailed for their progressive leadership in ESD and the HEA believes that the continuation of this leadership in education is important to the successful implementation of a sustainable development bill. The HEA also believes it is important for there to be direct reference to ESDGC within the bill, including a requirement for statutory delivery of ESDGC across primary, secondary and tertiary education.

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<sup>1</sup> The ESDGC Working Group is submitting a response through the Chair, Dr Carl Peters.

The HEA suggests reference is made to tertiary education in point 90 of the consultation document. The research outputs from universities have a valuable role to play in the provision of evidence informed decision making and have a potential wider impact on the economy, society, and the environment. Universities also have an important role to play in the creation of graduates literate in sustainability who are equipped with the key behaviours outlined as long-term thinking, integration, working across organisational boundaries, focusing on prevention, and engaging and involving stakeholders. The HEA has supported institutions in the development of ESD learning and teaching strategies to develop these skills – for example through its funding of NUS research into student attitudes to ESD<sup>2</sup> and facilitation of an ESD Policy Think-tank<sup>3</sup>. The HEA believes that the failure to recognise and include tertiary education in the Bill will make progressive sustainable development thinking and behaviours more difficult to achieve.

The HEA believes that there is scope for the inclusion of ESD as one of the Sustainable Development Objectives set out at point 92. This would enable the development of links between HE, policy-makers, local authorities, the Welsh government and business in order to facilitate evidence-based decision making and encourage futurity.

The HEA welcomes the inclusion of the list of organisations at point 120, in particular the inclusion of ‘Higher and Further Education organisations’ and ‘HEFCW’ considering the previous exclusion of higher education from the earlier parts of the consultation document.

The HEA would welcome a legal definition for Sustainable Development and believes this will be of great value to organisations working in the HE sector. A legal definition consistent with the current, widely accepted, definition is important (point 127). However, the definition as set out in the consultation document refers to ‘respecting limits’ rather than an obligation to ‘work within limits’. Sustainable Development requires a recognition that it is not acceptable to simply ‘respect limits’, it is vital to work within limits. To allow otherwise through ‘observing’ or ‘respecting’ will lead to a failure in sustainable development. This proposed word change is therefore put forward as an important consideration for the Welsh Government. However, if the agreement of a definition is not possible within the current available timeframe, this should not be allowed to prevent publication of a Sustainable Development Bill. Instead, the definition could be agreed as part of a regulatory framework within a specified time, preferably less than a year.

## Responses to specific questions

**Question 29:** The HEA suggests that the HE sector should be represented within the ‘expert advice and guidance’ model.

**Question 31:** The HEA is in broad agreement with the proposed functions for a new body to be established on a statutory basis. However, it believes that, in order to accurately assess HEI submissions on how they are meeting the Sustainable Development statutory duty, the HE sector needs to be represented on the statutory body. The HEA also considers it important to have access to SD expertise from the HE sector when required to make representations. However, the member(s) of the statutory body would be excluded from the selection process when the body commissions research. The HEA would also welcome over-arching, independent scrutiny from the Sustainable Development commissioner, as it is not considered appropriate for this role to be purely advisory.

**Question 32:** The HEA believes that a duty for all primary, secondary, and HE and FE institutions to report on their ESD activities is required for the new statutory body to be successful. These submissions could then be assessed by the education representatives on the statutory body or selected associates.

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<sup>2</sup> [http://www.heacademy.ac.uk/assets/documents/esd/Student\\_attitudes\\_towards\\_and\\_skills\\_for\\_sustainable\\_development.pdf](http://www.heacademy.ac.uk/assets/documents/esd/Student_attitudes_towards_and_skills_for_sustainable_development.pdf)

<sup>3</sup> the report will be published soon and available from <http://www.heacademy.ac.uk/esd>

SD Bill Team,  
Welsh Government,  
Cathays Park,  
CF10 3NQ,  
July 18<sup>th</sup> 2012

Dear Sir or Madam,

**Proposal for a Sustainable Development Bill.**

**Response by the Wales Landscape Partnership (WLP)**

**General comments**

The Wales Landscape Partnership welcomes the opportunity to comment on this important document. We trust and anticipate that its outcomes and the further refinement of its approaches, ensures that any steps to further the concept of sustainable development, pays fuller regard to and promotes the principles of the European Landscape Convention.

In particular we expect improved landscape stewardship to be a major outcome of the Welsh Government's sustainable development efforts thereby ensuring that not only are the unique qualities of Wales's most important landscapes safeguarded, but the standards of management of all of others are improved. We believe that the proposed Bill must therefore provide a much clearer demonstration of the Welsh Government recognition that sound landscape stewardship is the key prerequisite for the achievement of its future sustainability rationale.

In general we welcome and support the strategic direction of the document and the need for public bodies to have direct and statutory responsibilities to guide change and promote development in ways which are more obviously sustainable.

In order to achieve this, we believe the following **Key points of principle** must be reflected in the approaches which underpin the content of the forthcoming SD Bill:

- Its guiding principles must link and direct in a more coherent manner, all the other emerging legislation and public policy areas.





- A succinct, clear and comprehensible definition of Sustainable Development must appear in the Bill which incorporates the reflects the conditions which form the basis of the “Precautionary principle”.
- The promotion of sustainable development must guide all activities in Wales and underpin the statutory responsibilities of all public bodies when fulfilling their own functions and those whom they fund, work with or influence.

Equally in performing its functions, any relevant body or organisation must give due weight to the proposed sustainability factors in a manner which is proportionate to their relevance and reflects the specific spatial circumstances in which they occur.

- The principles of robust environmental protection and sound landscape stewardship, (as expressed in the emerging Sustaining a Living Wales agenda) must be more directly synchronised with the objectives of Sustainable development. The current potential mismatch must be resolved given that the ecosystem approach starts with the premise that the environment underpinning everything.
- The existing character and qualities of all Wales’s landscapes and seascapes should provide the framework for delivering SD and recognised as the integrating forces for its successful planning and responsible delivery.
- SD should synchronise the management of the land and sea in a coherent manner.
- S.D. must be spatially expressed and the role and existing status or functional value of any “place”, recognised when change is proposed. To do this, the Bill must therefore ensure that Natural Resource Management plan, the National Infrastructure Investment strategy and a refreshed version of the Wales Spatial Plan are all integrated and become spatially compatible with each other.
- The status and existing values of places and landscapes recognised as being of importance must safeguarded when change is proposed or promoted. In National Parks and Areas of Outstanding Natural Beauty, the promotion of SD must not over ride nor undermine the retention of the special qualities or values of these designated areas. In these important



landscapes, change must respect and reflect the sensitivity and finite values of the special qualities of these areas and be undertaken within the limits of their existing environmental constraints.

- The statutory framework within which Protected Landscapes operate should likewise be retained, given the integrated approach and facilitation role the relevant authorities in these areas seek to play in promoting SD principles. As a direct consequence of their respective policies approaches and decision-making processes, all these areas currently offer an effective means of integrating the protection of their special qualities with the promotion of appropriate social and economic activities, in particular through the medium of their respective Management Plans. The exemplar role that Protected Landscape currently play in guiding development and change in a sustainable manner should be highlighted and more fully recognised.
- Any future statutory SD provisions, should not take precedence over existing policies or legislation which protects the status of a designated landscape or the recognised importance of any similar cultural and natural resource.
- The prerequisite for all public bodies to take SD into account should be more rigorous than simply the need to *'have regard to'* this requirement, unless a very clear alternative framework is provided for it.
- Any legal SD requirement should include the manner in which the Welsh Government determines and uses its budgets. The use of any "enabling budgets" and the duty to achieve integrated sustainable outcomes as a result of using these funds must be inextricably linked.

#### **Detailed comments**

The remainder of this submission focuses on some of the key questions in the document relevant to our interests.

#### **Section 4 / 5:**

##### **Strengthening sustainable approaches through strong leadership**

Whilst we agree that management leadership must be a pre requisite to mainstream sustainable development, the stewardship of the environment and the retention of



its quality and diversity must also be fully recognised as an important focus for the nation's collective sustainability efforts.

The emphasis of any proposed duty must therefore be substantially stronger than merely one which relies on the premise of “*having regard to*” something, or labelling sustainable development simply as a “*central organising principle*”.

Likewise we contend that if an SD approach is to succeed, it must extend across all levels and activities within a relevant organisation and not as suggested simply be confined to high-level policy approaches.

### **Sustainable Development factors**

We believe that Behaviours [the how] and the Objectives [the what] should be considered together unless there is another supplementary mechanism for consolidating their intentions e.g. the contents of supporting guidance to legislation or in a practical sense the principles which govern the development of statements such as the National Resource Management Plan.

In addition we also believe that more detailed consideration must be given to the mechanisms to be used to resolve any possible internal conflicts which may arise when the promotion of one individual objective would prove harmful to the achievement of another, thereby resulting in an outcome which would be regarded as unsustainable.

### **Question 13: Sustainable Objectives**

Para 92 We strongly recommend the inclusion of a further factor which recognises

*the need to maintain and enhance the quality, distinctiveness and heritage value of any environmental resource or individual landscape i.e. the “Sense of Place” of any particular feature or location.*

Para 120 In terms of additional organisations to which the SD obligations should apply, we would add the following to the current list:

- a. Privatised utilities
- b. Port Authorities
- c. Organisations receiving financial support from the public purse  
[from LAs, WG, UK Government & the EU]
- d. Organisations contracted by public sector organisations.



## **Section 7: The creation of an independent Sustainable Development body**

WLP supports the establishment of an independent Sustainable Development body with a clearly defined statutory role and the capacity and resources to fulfil its role in a meaningful and unencumbered manner. We suggest its initial focus should be as an advocate for sustainable development in all its forms.

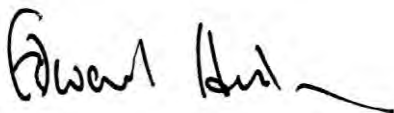
### **Conclusions**

WLP considers the success of any improved approach to the promotion of sustainable development requires the inclusion of a clear, robust and practical definition of Sustainable Development in the proposed Bill.

Regardless of how this proposed Bill is framed, significant leadership by the Welsh Government is needed if the nation's collective sustainability effort is to achieve its intended outcomes. The proposed National Resource Management Plan along with a refreshed version of the Wales Spatial Plan focusing on the integrated delivery of Sustainable development through the responsible use of Wales's environment and its associated natural resources, will have a major contribution to make in this respect.

WLP trusts that the above comments prove helpful and confirms that they can be made available to others if so required.

Yours Sincerely,



Peter Ogden and Edward Holdaway  
On behalf of the Wales Landscape Partnership

July 18<sup>th</sup> 2012



c/o Tŷ Gwyn, 31 High Street, WELSHPOOL. Powys. SY21 7YD

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### About us

*Ecostudio is a sustainable business consultancy established in Wales since 2008.*

*We have built a strong track record through providing strategic advice and research, benchmarking, project management and implementation, capacity building, coaching and mentoring for innovative SMEs (including farmers, co-operatives and social enterprises), supply chain partners (manufacturers, retailers, public and private sector hospitality providers), rural development agencies, business support organisations and policy makers.*

1. We are unable to fully respond to each consultation question. Instead the following points have been put together to reflect our views. To this end they are deliberately kept brief. They are based on our area of expertise and experience (outlined above). Therefore we are only commenting on the areas where we feel we can contribute to this important consultation. Our points are intended to be constructive and help to inform the direction of the Welsh Government (WG) Sustainable Development (SD) Bill. We are happy to discuss them further if required
2. We are fully supportive of a WG SD Bill and agree that there is a need to establish an independent SD body.
3. We understand the challenges in putting a document of this nature together but we would like to see the following addressed in future consultations to encourage wider access and engagement.
  - a. We find the language used is of a level that feels rather exclusive. Straightforward language should be used.
  - b. We believe the focus on wellbeing of people and communities is too narrow and will continue to leave SD wide open to value judgements and misinterpretation. Aspects regarding economic and environmental benefits should be given equal focus as these will help to bring practical value.
  - c. We think the proposals in the Bill are confusing and will be difficult to implement. For example if the SD Bill is purely for the public sector it is not made clear why BT is used as a case study. It is unclear why the SD Charter is aimed at business and Third sector.
4. We agree that placing an obligation on the public sector to meet sustainable development is a reasonable place to start to legislate for SD and that leading by example is a good approach. However we believe that this does not go far enough and that to achieve real change obligations must also be placed on the private sector – rather than encouraging voluntary codes of practice which is the current approach. Not all businesses sell to the public sector.
5. A definition of SD must be provided and practical indicators are needed to benchmark and base improvements against. We believe that, with the right terrain, the private sector and the public sector can work together to take the SD agenda in Wales forward in a timely and practical manner.
6. We don't agree that the public sector leads the private sector in this field. Many leading practitioners and interventionists are not part of the public sector and there are world class examples of best practice in industry in Wales that should be harnessed and offered as leading examples to raise awareness and communicate benefits.
7. Positive steps have been made by WG in relation to strategies that advocate approaches to SD for example rural development, food, waste. Examples of this include:
  - a. the True Taste Contribution to Sustainable Development Award which acknowledged best practice in Welsh food businesses and set the standard for others to aspire towards in line with WG policy.
  - b. the Sustainable Supply Chains initiative which demonstrated the commercial benefits of adopting SD practices in micro-enterprises and developed a framework for benchmarking sustainability in food supply chains.

However as neither of these programmes are currently active due to funding it is fundamental that the knowledge gained from these programmes is carried forward to inform other WG programmes. We are not aware that this is happening and believe that this is stalling progress.

8. We agree that effective decision making can lead to organisational change and this requires top-level ownership. In terms of implementing SD it is vital that WG departments improve communications with each other and avoid isolated decision making that can create problems further down the line. However top-down approaches don't always work. Mission statements are great but they can get lost when trying to implement. The risk is that this becomes embedded in strategy and not in action. The essence of sustainability is about collective responsibility so everyone must be engaged. A practical action plan is required in the SD Bill to enable this to happen.

### contact:

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# Stop Climate Chaos Cymru

## Sustainable Development Bill – position paper

July 2012

### Introduction

Stop Climate Chaos Cymru is a coalition of 14 influential Welsh organisations drawn from across civil society - environment and development groups, faith groups, women's groups, trade unions and many others - which is working to mobilise public concern and necessary political action, to stop climate chaos.

Our mandate is simple: to take socially beneficial action to prevent global temperature rises exceeding the two degrees C threshold above which the likelihood of irreversible and devastating climate change becomes unacceptable.

This can only be achieved within the context of sustainable development and we welcome the Welsh Government's plan for a Sustainable Development Bill. A sustainable Wales, living within environmental limits and using only a fair share of the earth's resources, can only be achieved if there's a step-change in decision-making and implementation of policies and services in Wales.

This Bill is a one-off opportunity to set us on a path towards achieving sustainable development, with clear legal duties and a powerful body to respond when things go wrong. We owe it to present and future generations, in Wales and throughout the world, to get this Bill right and create a sustainable Wales.

The Welsh Government's commitment to the Rio+20 process going forward is a clear indication of the political will to set ourselves at the forefront of this international context and we fully support the Minister's aim of achieving "*ground breaking legislation on Sustainable Development*" and to "*make our legislation as strong and effective as possible*" [1]. We share those aspirations and welcome the opportunity for civil society to play its part in shaping this legislation.

### Scope of the Bill

The new duty must be substantially stronger than the present duty [2] and needs to go beyond producing a scheme, "having regard to" something, or making sustainable development merely a "central organising principle".

The Bill should require Welsh Government Ministers and the devolved public sector (including local authorities and Welsh Government sponsored bodies) to exercise their (other) duties and powers in order to achieve sustainable development, both within Wales, and with regard to the impacts internationally.

The duty should be supplemented by a statutory strategy (or strategies) which would become the main mechanism for achieving sustainable development. We would expect the duty to lead, within a specified timetable, to clear actions by the Welsh Government and devolved public sector in Wales, which would, amongst other things:

- clearly drive down carbon and other greenhouse gas emissions
- create and sustain 'green jobs'
- promote ethical, fair trade and sustainable procurement by the public sector
- drive sustainable and ethical action by businesses that are supported by the Welsh Government in relation to their activities domestically and internationally
- deliver public services which meet the needs of the citizens of Wales

The duty should explicitly recognise and give regard to the international impacts of Wales, e.g.: the supply chains of the Welsh public and private sectors – both in terms of i.e. carbon intensity, food security etc.; the activities of Welsh businesses abroad; and the carbon emissions produced in Wales.

## Definition

The Bill must clearly define sustainable development, rather than leaving interpretation to further guidance, officials or the courts, and must be meaningful and accessible enough to drive/guide effective action.

The definition must make it clear that the implications of Welsh sustainable development policy do not end in Wales, but rather extend globally, and that the wellbeing of people in Wales is *an* aim but *not the sole aim* of the legislation.

The definition in One Wales One Planet [3], with reference to "*using only our fair share of the earth's resources*" is a good start. Welsh civil society organisations will be working together to propose specific wording to make this clear.

## Independent Commissioner

We support the principle of having a Commissioner for Sustainable Development who should become a powerful champion for future generations, people in developing countries and those living in poverty in Wales – who are all impacted on by unsustainable development.

The Commissioner should be independent of the Welsh Government and able to hold the Government and public sector in Wales to account.

The Commissioner should be both empowered and required to investigate and take action on failures by government both to comply with the provisions of the Bill, and more widely.

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 wider public sector in developing effective sustainable development schemes and investigative capacity to hold the devolved public sector to account.

## Notes

[1] Written Statement by the Welsh Government, 'Visit to Rio+20', Minister for Environment and Sustainable Development, 29 June 2012

[2] (Sec 79, Government of Wales Act 2006) Welsh Ministers "*must make a scheme ("the sustainable development scheme") setting out how they propose, in the exercise of their functions, to promote sustainable development.*"

[3] Sustainable Development in Wales

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

In ways which promote social justice and equality of opportunity; and

In ways which enhance the natural and cultural environment and respect its limits - using only our fair share of the earth's resources and sustaining our cultural legacy.

Sustainable development is the process by which we reach the goal of sustainability.

**Stop Climate Chaos Cymru** member organisations are: National Federation of Women's Institutes Wales, National Union of Students, Unison, Christian Aid Wales, CAFOD, Oxfam Cymru, Tearfund, Coed Cadw – The Woodland Trust, Friends of the Earth Cymru, RSPB Cymru, Sustrans Cymru, WWF Cymru, Wildlife Trusts Wales, The Centre for Alternative Technology.

[www.stopclimatechaoscymru.org](http://www.stopclimatechaoscymru.org)



@SCCCymru



/SCCCymru

## **Royal Society of Chemistry (RSC) RESPONSE to the Welsh Government's consultation on Proposals for a Sustainable Development Bill.**

The Royal Society of Chemistry (RSC) welcomes the opportunity to respond to the Welsh Government's consultation on 'Proposals for a Sustainable Development Bill'.

The RSC is the largest organisation in Europe for advancing the chemical sciences. Supported by a network of 48,000 members worldwide and an internationally acclaimed publishing business, its activities span education and training, conferences and science policy, and the promotion of the chemical sciences to the public. This document represents the views of the RSC. The RSC has a duty under its Royal Charter "to serve the public interest" by acting in an independent advisory capacity, and it is in this spirit that this submission is made.

**Chemistry has an important role to play in sustainable development. It can be used to provide the evidence required for decision making and to engineer the solutions to any number of problems in areas such as the management of water, the atmosphere, sustainable manufacturing, and agriculture.**

**Chemical science techniques will be invaluable for monitoring levels of emissions or contaminants, or the qualities of soil or the crops therein, but it will also provide solutions, giving:**

**the tools and processes to clean up water,  
techniques for recycling scarce elements, and materials to use in their place,  
sustainable fertilisers and crop protection products.**

The RSC applauds the Welsh Government's commitment to sustainable development. We are committed to meeting the challenges resultant from global changes, promoting awareness and highlighting the areas in which the chemical sciences can provide sustainable solutions. We would further welcome the opportunity to offer future support and assistance to the Welsh Government's Sustainable Development Bill where appropriate.

*Chemistry for Tomorrow's World: a Roadmap for the Chemical Sciences<sup>1</sup>* was produced in consultation with RSC members and the wider scientific community. This report outlines a number of ways in which the chemical sciences can (and will) contribute towards solutions to global challenges, including those of sustainable development in Wales.

The themes outlined below provide an example of ways in which the chemical sciences can contribute to the Welsh Government's objectives in sustainable development. The RSC would be happy to discuss any further topics as well as our areas of recommendation with the Welsh Government.

### **Water**

Worldwide growth in population has led to ever increasing demands on water supplies. Household, agricultural, and industrial demands are in competition and so efficient management and distribution strategies must be put in place to ensure that clean water of an appropriate quality remains economically accessible.

The chemical sciences have a dual role to play in treating water, by both making it potable and also by removing contaminants from wastewater and industrial waste streams.

Furthermore, research is required into the management, fate and impact of existing contaminants. The chemical sciences are crucial in assessing the risks of mixtures of



chemicals at low concentrations to the environment and human health. This must be coupled with research into the impact of contaminants on and their interaction with biological systems. There is finally a need for the chemical sciences to identify the potential impact of climate change on the fate and behaviour of contaminants.

### **The Atmosphere**

Scientists have an important role to play in understanding the chemistry of the atmosphere to be able to predict with confidence the impact of the emissions produced during human activity and to prevent and mitigate further changes.

### **Scarce Resources and Manufacturing**

Mineral commodities are essential to our way of life. Many of the elements used in the manufacturing of everyday objects are in limited supply, and it is often difficult to estimate the amounts in extractable reserves or to predict global demand as technologies change.

In modern technologies many of the elements used are difficult to reclaim or recycle and as a result end up dispersed in the environment. The principles of sustainable design need to be applied to this issue. In particular, emphasis on reducing, replacing and recycling scarce elements will be needed.

### **Agriculture**

The world faces a food crisis relating to the sustainability of global food supply and its security. To match energy and food demand with limited natural resources, without permanently damaging the environment, is the greatest technological challenge humanity faces.

Historically, increases have come from higher yields as a consequence of improved varieties, better farming practices and applying new technologies such as agrochemicals and more recently agricultural biotechnology. To meet growing demand for food in the future, existing and new technologies, provided by the chemical sciences, must be applied across the entire food supply chain.

The chemical sciences have a pivotal role helping farmers to improve the quality and yield of crops developing rapid sensing technologies for use in monitoring a wide range of parameters. In this manner nutrient deficiencies can be pinpointed, soil quality measured, and crop ripening pest levels and water availability monitored and adjusted for as needed.

The RSC would be happy to avail its collective expertise to the Assembly to assist their work in sustainable development.

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<sup>i</sup> Chemistry for Tomorrow's World: a roadmap for the chemical sciences, Royal Society of Chemistry, 2009



**MERTHYR TYDFIL COUNTY BOROUGH COUNCIL**  
**RESPONSE TO WELSH GOVERNMENT PROPOSALS**  
**FOR A SUSTAINABLE DEVELOPMENT BILL**

**Q1: What are the principal barriers you face to taking more long-term, joined-up decisions?**

Lack of buy-in from Officers and Councillors.  
Lack of awareness and understanding of Sustainable Development.  
Short term political cycle when Sustainable Development is all about thinking long term.  
Changing the organisational culture.  
Could be seen as a tick box exercise.  
Budget cuts/efficiency agenda reducing numbers of staff leading to increasing over reliance on key officers.

**Q2: What actions need to be taken, and by who, to reduce or remove these barriers?**

The tone set at the top by Executive Board to:

Provide training and build skills, awareness and knowledge of Sustainable Development with Councillors and Officers and other appropriate staff so that they can recognise the key role that a Sustainable Development approach can make to corporate decision-making and service provision. The greater the awareness the more success the Council is likely to achieve.

Embed the principles of Sustainable Development into the decision making processes of the Council including those relating to Cabinet/Council reports, policies, strategies, Corporate, Strategic and Operational Plans, and Projects so that services can be delivered in the most sustainable way.

Ensure that corporate governance arrangements support Sustainable Development.

**Q3: What other evidence is there about the extent of progress in relation to the Sustainable Development agenda and making Sustainable Development the central organising principle of public bodies?**

**Evidence at Merthyr Tydfil County Borough Council:**

**Community Plan**

The Community Plan *Its Looking Good: Merthyr Tydfil 2020 - Turning Aspirations into Reality* provides a commitment to sustainable development as evidenced below:

*"We are committed to the WG policy on sustainable development. This means that developments meet the needs of the future without endangering the ability of future generations to meet their needs.*

*Therefore, individuals and communities will have to take steps to do things differently so as to ensure we consider the needs of our children. To do this, community planning partners must set sustainable development and integrating social, economic and environmental priorities as their chief principle."*

The Community Plan consists of four Themes listed below, all of which contribute to the sustainability of the County Borough:

- A Prosperous, Cultural and Diverse Merthyr Tydfil.
- A Healthy, Safe and Fair Society.
- A Sustainable Living Environment.
- Learning for Life.

An example of this commitment to Sustainable Development is evidenced under Theme Three of the Community Plan, "A Sustainable Living Environment," where the following has been identified as sub themes:

- Energy Efficient, Low Carbon and Low Waste Society.
- High Quality Homes and Buildings.
- Natural and Historic Environment.
- A Sustainable Transport Infrastructure with a Wider Choice of Travel Options.
- Efficient, effective and sustainable public services that support and enable its citizens.

**Council's Corporate Priorities for Improvement**

The sustainability of services and communities was considered by the Council during the identification of its Corporate Priorities for Improvement for 2010-2013 and 2011-2014. The supporting action plans contain a number of actions and measures which seek to address sustainable development issues. These include a reduction in the amount of waste sent to landfill, improvements in energy management, a commitment to supporting the

development of the Social Economy and a review of all services to ensure that they are financially sustainable. In addition the Council has introduced a new Energy Policy in April 2011 which states the Council's commitment to energy efficiency and the reduction in carbon emissions.

## **Risk Management**

Since 2008/09 the Council's Corporate Risk Assessment Process has specifically identified Sustainable Development as a Corporate Risk, but was more focused around environmental and energy considerations as opposed to the wider definition of sustainability.

The Council has also identified and attempted to address sustainability related risks by incorporating sustainability into its corporate Risk Assessment Model Methodology, which combines both the requirements of the Local Government (Wales) Measure 2009 (seven aspects of improvement, which includes Sustainable Development) and those of traditional Risk Management.

The Risk Assessment Model is based upon a series of questions around 11 factors that each service area is expected to complete annually. Sustainability is one of these factors which have related questions, listed below, requiring responses in order to identify the associated risks. Service areas are also expected to assess these risks in terms of Impact and Likelihood and identify the related actions to manage and mitigate them.

Can the service maintain its current level of performance, delivery, quality and improvement?

Does the service exercise its functions in ways that contribute to the Sustainable Development and well being of the County Borough? (e.g. in terms of economic, social, environmental and the use of resources, including financial and human).

### **Q4: Have we identified the most appropriate level of organisational decision-making at which the duty should be applied?**

Yes, the most appropriate level of organisational decision-making at which the duty should be applied has been identified as being Cabinet and Council.

### **Q5: Would this approach risk capturing some decisions which should not be subject to the duty?**

It is essential that the organisation agrees the level at which the duty should apply. Otherwise, this duty will lose its focus and become a tick box exercise. Lower level decisions that have been delegated to Officers and Members such as Procurement could be missed.

**Q6: Are there any decisions that are not captured by this approach which should be subject to the duty?**

We are not currently clear if/how the Sustainable Development requirements would impact upon Town and Country Planning decisions.

**Q7: Should we include decisions which govern an organisation's internal operations?**

The principles of Sustainable Development should be embedded into all policies, strategies, Corporate, Strategic and Operational Plans, and Projects so that services can be delivered in the most sustainable way. However, this approach needs to be proportionate and sustainable in itself.

**Q8: Should budget proposals be subject to the duty?**

Yes, budget and spending proposals should be included. However, it would be recommended that this is not introduced from day one of the duty, which would allow organisations the opportunity to adhere to the duty in a phased approach.

**Q9: Are all of the behaviours we identify critical to acting in ways that reflect Sustainable Development thinking?**

Long term thinking, integration, working across organisational boundaries, focusing on prevention, and engagement and involvement are all key elements of Sustainable Development.

**Q10: Are there critical behaviours that we have not identified?**

All critical behaviours have been identified. However, should the consultation document make some reference to the "Key Ingredients for Delivering Sustainable Development in Local Authorities" (listed below) that are contained in the Welsh Local Government Association (WLGA)/PricewaterhouseCoopers (PWC) Report: "Sustainable Development - Local Authority Duties and Responsibilities (May 2011)" publication?

- Leadership.
- Attitudes.
- Culture.
- Know How.
- Governance.
- Tools.
- Resources.

**Q11: What are the advantages and disadvantages of designating behaviours as the Sustainable Development factors that must influence high level decisions?**

One of the advantages of designating behaviours is that evidence can be gathered to show the extent to which they have occurred. A disadvantage is that even if behaviours have been observed during the process, it will not always guarantee that the ultimate outcomes are sustainable. We see these behaviours as key principles to embedding Sustainable Development.

**Q12: How much influence should Sustainable Development behaviours have over high level decisions?**

These behaviours should be embedded within the decision making processes. However, more clarity is needed on this, if decisions are only lawful if they meet certain criteria.

**Q13: Are there core sustainable objectives we have not identified?**

The objectives in the consultation document identify the key long term outcomes for Sustainable Development.

For information, Merthyr's Community Plan consists of the following Themes/Sub Themes, all of which contribute to the sustainability of the County Borough. However, the Community Plan will be replaced by the Single Integrated Plan which is currently being developed on behalf of the Local Service Board.

<b>Community Plan Theme 1 - A Prosperous, Cultural and Diverse Merthyr Tydfil.</b>
More Jobs.
A Strong and Sustainable Economy.
Regenerated Communities.
Arts, Culture, Heritage and Welsh Language.
Recreation and Sport.
<b>Community Plan Theme 2 - A Healthy, Safe and Fair Society.</b>
A Healthy Merthyr Tydfil.
A Safe and Secure Merthyr Tydfil.
A Fair and Inclusive Merthyr Tydfil.
Better Access to Quality Services.
Better Access to Quality Facilities.
<b>Community Plan Theme 3 - A Sustainable Living Environment.</b>
Energy Efficient, Low Carbon and Low Waste Society.
High Quality Homes and Buildings.
A Natural and Historic Environment.
A Sustainable Transport Infrastructure with a wider choice of Travel options.
Efficient, Effective and Sustainable Public Services that enable its citizens.
<b>Community Plan Theme 4 - Learning for Life.</b>
Access and Engagement.

**Q14: What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?**

The objectives identified in the consultation document, such as for example, the well being of people, vibrancy of the economy and strengthened cultural legacy reflect sound outcomes which is definitely an advantage. A clear advantage of using these is that it is outcomes that we are really interested in achieving, rather than the behaviours.

One of the disadvantages, however, is that outcomes tend to be long term. Therefore, it can be difficult to determine at the point a decision is being made whether or not the stated objectives/outcomes will be delivered. There is a danger that prescribing these objectives and having to follow them to the letter would compromise/complicate demonstrating how organisations deliver on their Corporate Plans and Single Integrated Plans. Flexibility needs to be given in terms of how the objectives are covered by alternative phraseology in existing plans.

**Q15: How much influence should the objectives have over high level decisions?**

These objectives should inform decision making. However, more clarity is needed on this, if decisions are only lawful if they meet certain criteria.

**Q16: What are the advantages and disadvantages of basing a duty on Sustainable Development behaviours and Sustainable Development objectives?**

Behaviours should be the underpinning principles and the objectives should be the criteria to assess proposals and decisions (with flexibility on the wording).

**Q17: What are your views on basing a duty around a single Sustainable Development proposition?**

The single Sustainable Development proposition is very broad and could make it difficult to evidence and measure. It could also make it open to different interpretations.

**Q18: How much time should organisations be given to make these changes?**

The Bill should be introduced on an incremental basis. This would also need to take into account the overall planning cycle of organisations. Also, when

the Bill comes into force there would need to be a minimum of say, one year for example, to get processes and reporting mechanisms in place. However, we are introducing an authority wide approach as a pilot.

**Q19: Would it be helpful to issue formal guidance to organisations subject to the new duty?**

Guidance needs to be developed alongside the new duty and published together. This will ensure that there is no confusion between the guidance and duty.

**Q20: Should any such guidance be issued by the Welsh Government or the new Sustainable Development body?**

Initial guidance would probably need to be issued by the Welsh Government until the new Sustainable Development body has been established, following which statutory guidance should be developed by the new body.

**Q21: Are there any particular statutory duties which it would be appropriate to repeal, in light of the approach we are proposing under the Sustainable Development Bill?**

It would be useful to have a high level guide to the statutory duties that contribute to the Sustainable Development agenda in Wales which could be repealed in light of the new duty. However, it is possible that many of these would need to remain as the Sustainable Development duty is likely to be high level.

Also, there may be advantages to keeping some Legislation which contribute to Sustainable Development as this would reinforce the Sustainability agenda.

**Q22: Are there legal barriers to delivering in line with the Sustainable Development factors we have set out, which the Sustainable Development Bill could remove?**

Not aware of any legal barriers.

**Q23: Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?**

Reporting and monitoring will be key to the success of the Sustainable Development Bill. Councils for example, already have reporting mechanisms in place for improvement plans and annual reports, and these should be used to report on sustainability. This would ensure that Sustainable Development is embedded within the organisation and is not seen as an “add on.” Whatever the requirement it needs to be proportionate and sustainable in itself.



**Q.24 Are there organisations on this list that should not be subject to the duty?**

It makes sense that all of these organisations will be subject to the duty.

**Q25: Are there any organisations that are not listed above but which should be subject to the duty?**

Other organisations not listed could include:

- Local Service Boards (We are aware they are not statutory organisations).
- Housing Associations.
- Police Forces.
- Utility companies.
- CVCs (Third Sector).

**Q26: Are there other advantages or disadvantages to defining “Sustainable Development” and if so, what are they?**

A single definition of Sustainable Development for Wales is definitely needed to provide clarity and consistency. At present there are various different definitions in use, which adds to confusion over the concept.

**Q27: If we were to define “Sustainable Development” do you think that the above definition would be suitable and why?**

This definition is suitable and covers the three key strands of Sustainable Development.

**Q28: What should be the overall purpose for a new body?**

The overall purpose of the new body should be to support and foster delivery of the Sustainable Development Bill across Wales. Is a separate body absolutely necessary in the current financial climate?

**Q29: Do you have any views on the preferred approach regarding the main functions of the new body?**

The function of a new Sustainable Development body could include:

- Research and evidence gathering around Sustainable Development challenges and solutions.
- Production of guidance to support public sector organisations.
- Monitoring, scrutiny and challenge of public sector performance on Sustainable Development.
- Training for those involved in scrutiny and monitoring.
- Organising peer review of organisations to identify good and bad practice and share learning.

Ensuring consistency of approach.

If the new Sustainable Development body is to incorporate aspects of audit then there is a question as to how this will link with the Auditor General for Wales to avoid duplication and embed Sustainable Development into audit principles.

**Q30: Are there significant disadvantages to establishing a new body on a statutory basis?**

The new body will have to be seen as adding value to the Sustainable Development agenda and supporting organisations across Wales, especially during the current economic climate. Its creation and functions have been clearly identified and justified. There will clearly be costs associated with the establishment and running of the organisation and would it be more cost effective if it was part of Welsh Government?

**Q31: Do you agree with the proposed functions for a new body established on a statutory basis?**

Agree with the proposed functions.

**Q32: Are there any other functions which should be considered?**

It seems that all necessary functions have been covered.

**Q.33 Do you have particular views on the independence of a new body?**

We can see the need to be independent however this needs to be balanced against the costs associated with the establishment and running of the organisation.

**Q34: Do you have particular views on the accountability arrangements for a new body?**

The new body needs to be accountable for its actions to ensure that it effectively fulfils its duties. A Board could be established with representation from different sectors and areas to oversee the work of the body.



**Bryniau Clwyd a  
Dyffryn Dyfrdwy**  
Clwydian Range  
and Dee Valley

Ardal o Harddwch Naturiol Eithriadol  
Area of Outstanding Natural Beauty

**SD Bill Team  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ**

Dear Sir or Madam

**WELSH GOVERNMENT CONSULTATION: PROPOSALS FOR A SUSTAINABLE  
DEVELOPMENT BILL**

Thank you for seeking the views of the Joint Advisory Committee (JAC) for the Clwydian Range and Dee Valley AONB on this consultation document.

The following observations are submitted on behalf of the committee following consultation with the Chair of the JAC.

**“The JAC supports the overall aim to facilitate and promote sustainable development by embedding the principle into the way organisations work, along with encouraging more longer term, integrated thinking.**

**In taking forward the sustainable development agenda the JAC would ask the Welsh Government to recognise the role played by Wales’ protected landscapes, including the Clwydian Range and Dee Valley AONB, in securing a sustainable future. The very high quality of the Welsh landscape is one of the country’s defining features and it has a vital part to play in maintaining and enhancing our quality of life in many ways, including health and wellbeing, biodiversity, conservation of our culture and heritage together with economic prosperity. Conservation and enhancement of Wales’ best landscapes must be recognised as a sustainable development objective.**

**The JAC would also recommend that implementation of the proposed sustainable development duty in respect of ‘higher level decisions’ such as longer term strategies should include AONB Management Plans prepared in line with the Countryside and Rights of Way Act 2000.”.**

Yours faithfully,

**Tony Hughes  
For the Clwydian Range and Dee Valley AONB Joint Advisory Committee**

Eich cyf/Your ref:

Ein cyf/Our ref

Dyddiad/Date **18 July 2012**

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