

Consultation on Proposals for a Sustainable Development Bill

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Powys Environmental Partnership
Celia Thomas – Private Individual
Fair Trade Wales
Friends of the Earth Cymru
Public Health Wales
Sustrans
Ecodyfi
Wales Co-operative Centre
Design Commission for Wales
Cathays Community Centre
Foundation for Democracy & Sustainable Development
Farmers Union of Wales
Chris Daw – Private Individual
Green House thinktank
PLANED
Canal & River Trust
Ofwat
Wales Probation Service
Llangollen Town Council
Sustainable Gwynedd
Gwynedd Council
Cynog Dafis – Private Individual
Cymdeithas
Cardiff & The Vale Parents Association
Arfon Hughes – Private Individual
Gwynedd Environmental Partnership
Town and Country Planning Association
A4SW
Law Society, Planning & Environmental Law Committee
Cardiff University
Flintshire County Council
WCVA
Leonard Cheshire Disability

Ecodesign Centre Position Paper on links between proposed SD Bill and proposed Wales Innovation Strategy

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We make ecodesign happen through collaborative projects with design-led companies, policy-makers, industry associations, research centres, educators and social enterprises.

This position paper produced by the Ecodesign Centre has three aims;

1. to broadly support two current consultations from the Welsh Government: the SD Bill and proposed Innovation Strategy
2. to highlight synergies between the two consultations in terms of actions and outcomes
3. to highlight the role ecodesign can play in these synergies

This paper is based on existing Global or European research. The Ecodesign Centre is currently working with **the Welsh Government to develop insights specific to** Wales - i.e. long term potential for ecodesign impact in Welsh Industry and the economic rationale for doing so.

highlights

Economic rationales for linking discussion on SD Bill and Innovation Strategy

1. Dutch consultancy Ecofys suggests that by 2020, ecodesign could lead to a €90 billion saving on the EU's energy bill which could drive employment growth
2. research by DEFRA shows there are £23 billion worth of savings per year available to UK companies through simple resource **efficiency measures that would pay back in less than a year**
3. **29% of profit warnings issued by FTSE350 companies in the UK in 2011 were attributed to rising resource prices**
4. recent McKinsey report indicates potential global savings of between \$2.9-\$3.7 trillion by 2030 through a range of resource **efficiency measures**

Key strategic levers for ecodesign

1. Tackling resource security to reduce business risk
 2. Addressing energy demand
 3. Creating value and accelerating the green economy
 4. Facilitating sustainable consumption
 5. **Renewing design education**
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Key actions for Welsh Government

1. Display leadership through action and impact
 2. Leverage Public procurement to create demand and facilitate supply of sustainable products and services
 3. Strategically align R&D funding to leverage market pull of sustainable products and services
 4. Enable Sustainable Innovation Systems - aim to prevent dependence on unsustainable technologies and sectors that can **have significant negative externalities**
 5. **Ensure policy coherence for business (demand side) and for wider Welsh Government (supply side)**
 6. Enable strategic collaboration, particularly in the area of transnational public-private partnerships for the purpose of analysing opportunities, diagnosing problems, exploring sustainable options and strategic planning
 7. Build on existing strengths in Wales to incorporate Design Thinking at all levels of government and explore opportunities offered by Social Innovation
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1. Background

Welsh Industry can contribute to a sustainable society by developing more responsible business practices and designing products and services with higher sustainability performance. A higher sustainability performance means developing solutions that are commercially viable while having positive environmental and social impacts.

Historically environmental impacts of manufacturing have been regulated through pollution control and emission reductions. A failure to embrace more sustainable practices has resulted in higher operating costs, e.g. fines, penalties and, most importantly, customers choosing to go elsewhere. Successfully implementing more sustainable practices, on the other hand, can reduce costs, build a strong brand reputation, attract investment, drive innovation, secure loyal customers and create repeat business.

Because of these benefits, innovative companies are moving towards more sustainable business practices such as ecodesign and integrated sustainable strategies and management systems. For example, last month Electronics manufacturers Philips, Electrolux and the Bosch and Siemens Home Appliances Group issued a joint statement calling on the European Commission to harness the potential of existing ecodesign regulations so that products can be designed more sustainably ¹.

There are many examples of other companies working with their supply and value chains in environmentally responsible ways. These sustainable approaches are helping these companies to innovate their business model and maximise value.

While there are some positive examples, the current policy and business actions around closed-loop production, circular economy, resource efficiency and innovation demand stronger leadership and direction. It is crucial for manufacturing companies in Wales to embrace these innovative approaches in order to remain competitive and relevant in rapidly changing global markets.

2. Innovation and Sustainable Development

Innovation is a cornerstone of many national strategies for prosperity and competitiveness. Recently, policy makers (EU), industry organisations (OECD, WEF) are placing a greater emphasis on the role innovation has in responding to the grand challenges of society. Some of these grand challenges include emergent technologies, climate change, new domains of healthcare, ageing population, global poverty, well-being, material security and resource efficiency.

1 <http://www.euractiv.com/energy-efficiency/electronics-companies-want-stronger-news-513467>

These grand challenges mean that the context within which the decisions that drive innovation are made is more complex and interdependent than ever before. This complexity is driven by transformations in economic, geo-political, societal, technological and ecological systems that are challenging existing systems of governance (e.g. norms, standards, policies) and existing approaches to innovation.

In the face of these grand challenges, the incremental, radical/disruptive or systemic nature of innovation is of key interest.

3. What is ecodesign?

Design is a process that connects technological innovation to people. Without design very few technological innovations reach the market on a significant scale. Ecodesign is a strategic approach to managing design. It helps companies understand the relative sustainability of their products and services. Ecodesign considers the full life cycle impacts of products and services (e.g. energy, materials, distribution, packaging, use and end-of-life treatment).

While not all sustainability problems are related to design, ecodesign can assist businesses by considering multiple business and stakeholder interests, provide practical and creative solutions to complex problems and add value through improved products and services.

Some of the key principles of ecodesign include;

- all product life cycle stages are considered (from raw materials, production, use, transport and end of product life)
 - design activities are focussed on areas of greatest impact
 - all sustainability issues are taken into consideration (inc. social impacts)
 - no shift of environmental pressure between stages of the life cycle (e.g. avoidance of legacy waste)
 - creation of goods and services with higher overall quality and value
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4. Strategic levers and links to ecodesign

There are a number of “strategic levers” that link ecodesign, innovation and sustainable development. It is essential that these links are addressed coherently in policy.

4.1 Tackling resource security to reduce business risk

“A resource-efficient Europe” is a flagship initiative under the Europe 2020 Strategy. This initiative clearly highlights the value of design as follows: “improving the design of products can both decrease the demand for energy and raw materials and make those products more durable and easier to recycle. It also acts as a stimulus to innovation, creating business opportunities and new jobs”.

This initiative is timely for business as the cost of materials in manufacturing are rising significantly. 29% of profit warnings issued by FTSE350 companies in the UK in 2011 were attributed to rising resource prices according to EEF, the Manufacturers’ Organisation ². Over 80% of chief executives of manufacturing companies suggested that access to raw materials and shortage of supply was a risk to their business in 2012 ³.

A Eurobarometer survey from 2011 suggests that material costs account for around 50% of the total production value of manufacturing companies in the EU ⁴. These price rises are caused by increasing scarcity or reduced availability of supply of key materials.

The business risks from rising material prices is exacerbated by price volatility for raw and commodity materials. In a Price Waterhouse Cooper report ‘Minerals and metals scarcity in manufacturing: the ticking time bomb’ it was suggested that “in Europe, almost 80% of senior executives from global manufacturing companies cite mineral and metals scarcity as a pressing issue and 67% see this evolving into an area of opportunity, including the possibility of adopting alternative approaches or substitutes ⁵. In fact, having the ability to substitute technologies for those not requiring the use of critical raw materials is the most frequently cited requirement to mitigate the effects of mineral and metal scarcity”. This issue of scarcity is now so significant that the EU has set about identifying key resources, such as rare earth elements, cobalt and indium, that are at risk from both growing global demand and politically constrained supply.

4.2 Addressing energy demand

While many governments, in particular those in the EU, are setting ambitious targets for

2 <http://www.defra.gov.uk/publications/files/pb13719-resource-security-action-plan.pdf>

3 <http://www.eef.org.uk/blog/file.axd?file=2012%2F1%2FExecutive+Survey+2012.pdf>

4 http://ec.europa.eu/public_opinion/flash/fl_315_en.pdf

5 <http://www.pwc.com/gx/en/sustainability/research-insights/metal-minerals-scarcity.jhtml>

a reduction in energy use and resource consumption current consumption trends are increasing. The debate is still largely dominated by the supply argument and there is much less of a focus on demand. Energy demand is both a social and technical issue. The social aspects of demand relate to how people understand and consume energy. The technical aspects relate to the relative energy efficiency of the products and services they use. A recent report by the Dutch consultancy Ecofys suggests that by 2020, ecodesign could lead to a €90 billion saving on the EU's energy bill. This saving is largely driven by the Ecodesign Directive facilitating the development of products that use less energy ⁶.

Interestingly the report also highlights that these financial saving can be distributed elsewhere in areas of the economy that have higher labour intensity, e.g. services and retail. This suggests that a fall in demand for energy could potentially have a positive impact on employment within the EU. Ecofys suggest that this spending shift could result in an extra million jobs by 2020.

4.3 Creating value and accelerating the green economy

The business opportunities from ecodesign, environmental goods and services and the clean revolution are significant. There are a cluster of opportunities through cost savings, increased brand equity and niche market opportunities. In terms of direct cost savings, a recent McKinsey report indicates potential global savings of between \$2.9-\$3.7 trillion by 2030 through a range of resource efficiency measures. The McKinsey report suggests that 70% resource efficiency measures would have investment returns of 10% or more per year ⁷.

Also research by DEFRA shows there are around £23 billion worth of savings per year available to UK companies through simple measures that would pay back in less than a year. This £23 billion of potential savings is unevenly spread across all sectors with some of the greatest savings identified in chemicals, metal manufacturing and construction ⁸.

According to the UK Manufacturing Advisory Service, the global market for low-carbon products is already estimated to be worth over USD 5 trillion and growing. Also in 2010 they conducted survey of UK-based manufacturing SMEs shows that 56% are already investing in low-carbon technologies and strategies ⁹.

Ecodesign and sustainable business practice has the potential to drive up financial value. A study by Harvard and London Business Schools found that financial analysts rate companies with a visible reputation for environmental responsibility higher than

6 <http://www.ecofys.com/en/publication/economic-benefits-of-the-eu-ecodesign-directive/>

7 McKinsey Global Institute (2011) Resource Revolution: Meeting the world's energy, materials, food and water needs.

8 <http://www.defra.gov.uk/publications/files/pb13719-resource-security-action-plan.pdf>

9 <http://www.mas.bis.gov.uk/news/green-light-for-low-carbon-future-says-manufacturing-advisory-service>

others. Conversely, poor performance can be a serious risk. Companies with significant environmental problems, including litigation, have to pay up to 0.64% more to service their debts and secure credit ¹⁰¹¹.

Ecodesign and sustainable business practice also has the potential to help companies attract young workers. A 2010 survey of 5300 respondents worldwide, carried out by Johnson Controls Global Workplace Solutions, shows that over 96% of 18-45 year olds want their employer and workplace to be environmentally friendly or at least environmentally aware. Over 70% of all respondents would like to share printers and have recycling bins in the office, while 47% want to have water saving devices and solar panels installed on site ¹².

Retailers are demanding that suppliers respond to green consumers. A number of high profile sustainability initiative by retailers include the Marks and Spencer Plan A and the Asda 'Green is Normal' campaign ¹³¹⁴. In 2009, Walmart, the largest retailer in the world, introduced a worldwide sustainability index. The index will be applied to over 100 000 global suppliers to give consumers a clear environmental and social rating for every product it sells ¹⁵.

4.4 Facilitating sustainable consumption

Design does not just involve the aesthetic aspects of a product but also the overall technological performance and character situated within an organisational and cultural context. Therefore, while the term "design" is commonly understood to describe an object (output), design is a process. The design process involves not just shaping a product's appearance but also involves a range of inputs into the creation of the form and function of a product, its production, marketing and appeal to the consumer. Designers are uniquely positioned to combine multi-disciplinary talents of aesthetics, engineering and physical sciences while incorporating an appreciation of culture, values and preferences of clients and users of their products.

Design has been one of the most effective tools used by business to influence behaviour. Because design has been so effective at developing consumption patterns (e.g. adoption of new technologies, trends and product renewal) there are significant lessons to be learned as to how people can be supported to make sustainable consumption choices.

10 Ioannu, I. and G. Serafeim (2010), The Impact of Corporate Social Responsibility on Investment Recommendations, Harvard Business School, Cambridge, MA.

11 Bauer, R. and D. Hann (2010), Corporate Environmental Management and Credit Risk, European Centre for Corporate Engagement, University of Maastricht, Maastricht

12 Johnson Controls Global Workplace Innovation (2010), Generation Y and the Workplace Annual Report 2010, Johnson Controls, Inc., Milwaukee, WI

13 <http://plana.marksandspencer.com/>

14 <http://your.asda.com/sustainability>

15 Walmart (2010), Sustainability Index website, <http://walmartstores.com/sustainability/9292.aspx>

4.5 Renewing design education

Design education needs to prepare the designers of tomorrow. This is not to suggest that we turn away from traditional design practices and commitments, such as to technology, industry and consumers, but these commitments need to be aligned to broader commitments towards society and the environment, i.e. sustainability. Because sustainability is multidimensional and complex we can not rely on current thinking to solve problems. This is one of the central challenges of education for sustainable development, i.e. how do we ensure that education is still relevant in a rapidly changing and dynamic world that is presented with complex challenges to which few appear to have solutions (or at least the ability to implement the solutions at an appropriate scale).

The last few years has seen the integration of sustainability into a significant number of design courses, especially product design and architecture. There is a need to accelerate the development of new, and strengthening of existing, design education programmes to move forward with integration of sustainability principles, and innovative forms of learning in design education, lifelong learning and entrepreneurship training. Even though the boundaries become blurred there is a need for structured co-ordination and a consideration of these issues within existing design education programmes. There is an urgent need to strengthen the understanding of competencies of design practice to facilitate mainstreaming sustainability in design education.

5. What can business do?

As we stated in the introduction, business is central to a sustainable society and there are significant short and medium term risks from not addressing sustainability at an organisational level. There are many steps that business can take to improve sustainability importance. We understand that not all businesses are the same so we outline some key actions below for large and small companies

5.1 Large businesses

- Map key strategic drivers and resource related risks, e.g. critical materials, water footprint, responsible supply chain
 - Understand impact over full life cycle, benchmark and report
 - Engage in transnational networks such as the UN Global Compact, World Business Council for Sustainable Development
 - Strive for radical transparency, e.g. use Environmental Product Declarations (EPDs), certifications
 - Challenge existing business model, do not settle for 'greening business as usual'
 - Involve all of your workforce from the outset, sharing responsibility for change
 - Support your supply chain and other life cycle actors to understand and reduce your impact as well to drive sustainable innovation
-

5.2 Small and medium sized enterprises

- Map business risks e.g. critical material supply, energy costs, water footprint
- Understand impact over full life cycle - using simplified life cycle assessment tools
- Develop niche sustainable market opportunities that are not served by larger companies
- Involve all of your workforce from the outset, sharing responsibility for change
- Work with customers and suppliers to understand and reduce your impact as well to drive sustainable innovation
- Engage in national and transnational knowledge networks to build capacity and knowledge

6. What the Welsh Government can to do

Initiatives and programmes that promote ecodesign are diverse and include both supply-side and demand-side measures. Many supply-side initiatives involve the creation of networks, platforms or partnerships that engage different industry and non-industry stakeholders, in addition to conventional measures for funding research, education and technology demonstration.

6.1 Other key actions

1. Display **leadership** through action and impact
 2. Leverage **Public procurement** to create demand and facilitate supply of sustainable products and services and reduce risks through supplier development and forward commitments
 3. Leverage **R&D funding** to create strategically aligned market pull of sustainable products and services - for example, using mechanisms similar to the TSB small business research initiative to tackle the significant sustainability challenges facing Wales
 4. Enable **Sustainable Innovation Systems** - prevent institutional and technological lock-in that can entrench unsustainable sectors with significant negative externalities
 5. Ensure **policy coherence** for business (demand side) and for wider Welsh Government (supply side)
 6. Enable **strategic collaboration**, particularly in the area of transnational public-private partnerships for the purpose of analysing innovation opportunities, diagnosing problems, exploring sustainable options and strategic planning
 7. Build on **existing strengths** in Wales to incorporate 'Design Thinking' at all levels of government and explore opportunities offered by Social Innovation
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6.2 Spotlight on procurement

Demand-side measures such as sustainable public procurement are essential as insufficiently developed markets are often a key constraint for ecodesign. The public sector is a large consumer: in the EU15, for example, approximately 16% of GDP is spent on public procurement. Public procurement therefore is a key source of demand for companies.

Green or sustainable public procurement has been promoted by many OECD countries since the 1990s as part of environmental policy. However, it has not been mainstreamed in as many countries as expected. This is often to knowledge gaps among procurement officers, confusion regarding costs, and payback periods, concerns over potential market distortion lack of understanding of key issues.

Public procurement, as an eco-innovation policy tool, can generate or maintain demand for new environmental goods and services. In facilitating demand procurement policies can address structural failures regarding the translation of societal or consumer needs into functioning markets for ecodesigned products. A key outcome of sustainable public procurement is resource efficient public infrastructure and services.

For many years, public procurement was not considered a key means of leveraging innovation or part of innovation policy and there was poor alignment between supply-side and demand-side measures. As attention to demand-side policies gradually increases, some governments have started to highlight procurement as a way to enable innovation.

The European Commission issued a strategic innovation policy paper that sheds light on the importance of public procurement for innovation and for creating a lead market. In 2007 it published a guide for using public procurement to drive innovation. There is a need for a more focused approach to leveraging ecodesign activities alongside a more comprehensive understanding of the interaction between supply and demand for ecodesign.

Government may also directly support business and individual consumers with subsidies, tax incentives or other benefits for purchasing particular eco-products and services such as renewable energy, energy-efficient electronics and green buildings in order to stimulate demand.

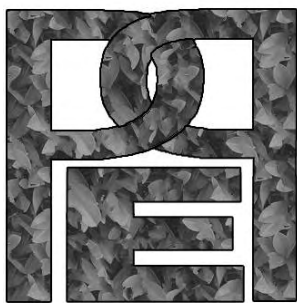


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Partneriaeth Amgylcheddol Powys Powys Environmental Partnership

Proposals for a Sustainable Development Bill – Powys Environment Partnership response

The Powys Environmental Partnership, established in 2004 aims to bring together organisations from public, private and community sectors to work in partnership to protect and improve the environment. The partnership aims to raise environmental awareness amongst the residents of Powys. Through education and community leadership, it hopes to encourage the people of Powys to work together for the benefit of the environment.

The partnership welcomes the Welsh Government's intention to introduce a Sustainable Development Bill and the opportunity to contribute to its development. The Partnership hopes that the Bill will strengthen Wales' commitment to living within environmental limits while enhancing the quality of life of the people and communities of Wales.

Questions

Proposed Duty

From the list of organisations who will be subjected to the duty we feel the following are missing:

Local Service Boards

Planning Authority

Regional Transport Consortia

Police (despite their funding coming from the Home Office)

WCVA

We also feel that Town and Community Councils should be made aware and encouraged to comply with the duty but not necessarily subjected to it as a legal requirement.

In general we regard a stepped approach to implementation the most appropriate, with Local Authorities, Local Health Boards and Welsh Government in the first wave.

We very much feel that Welsh Government should lead by example with a consistent approach taken throughout the organisation not just within the Department of Environment and Sustainable Development

Definition – does there need to be one? If so where and how detailed?

We very much feel that a high-level definition should be adopted that has the capacity to be adapted to local situations.

We suggest that the definition contained within *One Wales: One Planet* should be included either within the Bill itself or in secondary legislation that sits alongside.

Monitoring and Scrutiny

Ensuring compliance should be about helping an organisation to achieve positive compliance over a long time frame without watering down what the Sustainable Development Duty is or looks like. It shouldn't be about catching out organisations to make them fail; it should be about helping them to be successful.

Incorporating Sustainable Development reporting in existing annual reporting places it as a central priority in business planning and reporting; this is the case for both the organisation and the auditor.

Role of the new statutory body

We very much feel that the new Statutory Body should be independent and should have both an Ombudsman role and an advisory role.

In order to be successful a significant amount of resource will be required, something for consideration in the current economic climate.

Meaningfulness – what will be different as a result?

In order for the Duty to become embedded within organisations we feel scrutiny is key. There is the potential for nothing to change if the scrutiny is not good enough, and the Wales Audit Office will have an important role in this context.

For Sustainable Development as a principle to work we need to look to existing case studies.

For example: Wye and Usk Foundation – Wye passport pays for maintenance of certain stretches of the river.

This is a good example where money initially obtained from European sources has been matched by money and in-kind support by those interested in the well-being of the river (Wye and Usk Foundation) to improve the river corridor habitat to support wildlife including fish. The way these improvements have been maintained has been to market the angling experience on these river reaches and to use the revenue obtained to provide a small income to those who own them to incentivise them to maintain the treatments (typically, tree management and fencing to exclude livestock) over time.

What are the barriers to making Sustainable Development the central organising principle?

- Welsh Government not buying into the duty across departments; a recent example includes the Shared Purpose, Shared Delivery consultation which had a very different definition to Sustainable Development than that contained within *One Wales: One Planet*.
- Not working with organisations with the greatest influence; Welsh Government, Local Authorities etc.
- The Duty needs to ensure that it is robust to political change.
- There needs to be a commitment for the duty to filter down through departments and a fundamental change to working. If there is to be a shift towards sustainability we need to look at whether the types of job description, the amount of work capacity, and the level of authority to deliver a sustainable shift is correctly targeted in each organisation. For instance, if the cycling and walking officer is one junior officer compared to six more senior trunk road engineers it is unlikely that they will have much influence over the level of priority given to walking and cycling measures in any given road project.

Risks & unintended consequences

That the Duty will be merely a tick-box exercise or, conversely, an overly onerous duty could take away from frontline duties. This needs to be very carefully considered.

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/consultations/forms/sdbillresponse/

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: (Unchecked)

Your name: CeliaThomas

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

As a farmer business is largely subsidy driven. Subsidies that are not born of sustainable development. In my work with the National Park I am able to underpin my work with sustainable development principles, but there are maybe too many compromises today in terms of the emphasis put on economic considerations before environmental concerns

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

All major areas of delivery need to be assessed in terms of the duty to sustainable development. This process cannot be achieved overnight and should be addressed through each organisation or industries approach to future planning. When outlining each corporate or individual industry purpose the duty to embed sustainable development should be considered at every stage. Additional cost is often quoted as the biggest barrier to for example build new homes to a sustainable standard, however for increased upfront costs (which could be offset by tax breaks) the ongoing savings need to be sold even if they have no monetary value.

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? :

Where the concept of sustainable development is well understood and already underpins the ethos of the organisation such as in National Parks there is better buy in to the principles internally (more sustainable systems in place) and a greater desire to deliver in the mainstream work both in the countryside practices and in areas such as planning. However where focus is not already closely linked to environmental delivery such as in healthcare it will be harder to achieve. This demonstrates how important the underlying understanding and buy in is. It has to start in schools, in the home to be able to permeate society as a whole. it needs to become a way of life.

Have we identified the most appropriate level of

Establishing a change in behaviour at an organisational level is good but as previously stated I believe it has also

organisational decision making at which the duty should be applied? Please explain:

to be understood at an individual level. We need to change how society thinks to get the level of buy in required.

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

Each organisation should clearly understand its primary purpose. Sustainable development will need to be built in but must at least initially not compromise the primary purpose - I think health care could illustrate this with some areas (local procurement of food) perhaps being easier to achieve to a required standard whilst other areas (cost of treatment of some diseases) not meeting criteria but perhaps being measured in another way.

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

6.

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

7. The carrot is always better than the stick so we need to identify key issues and apply some form of carrot for these across the board to encourage not enforce action.

Should budget proposals be subject to the duty? Please explain:

8. This is the difference between best value versus fit for purpose. There will be many instances where best value is not the most sustainable solution. But we would hope that in having to look at the sustainability issues we could work towards achieving outcomes that are both best value and sustainable but it may mean encouragement and support for the solution that will be better for our future.

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

9. I am not sure that behaviours is the right way to influence the cultural change required. We need to introduce the process of decision making that will enable the decisions to be taken in the appropriate way.

Are there critical behaviours that we have not identified? Please explain:

What takes priority (for National parks the 'Sandford Principle') must be identified at an organisational level. How the duty fits in should be agreed at this level and when other factors must take precedence must be identified. the new body should produce this guidance.

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

11. I am not sure that behaviours is the right way to influence the cultural change required. We need to introduce the process of decision making that will enable the decisions to be taken in the appropriate way.

is consistent with one, some

12. They should always be considered against the first

or all of the behaviours:	purpose. Lawful is another issue that might just make lawyers ever richer when money is tight we should be looking for more sustainable ways to ensure we deliver sustainable solutions.
broadly reflects the behaviours:	This is where we start and as we assess this process perhaps it will become clear which 'behaviours' are the more critical ones and which are easier to achieve.
is not inconsistent with the behaviours?:	
are there other options?:	.
Are there core sustainable development objectives we have not identified above?:	13.. The alternative not to develop but rather recycle, reuse and renew should be the first step. The unfortunate reliance on the term sustainable development implies development is appropriate, when it may not be. We need a non development approach, that is how can we achieve this with no or minimal development, working with existing boundaries and limitations can sometimes achieve more sustainable solutions.
What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?:	
only if they actively contribute to one or more of those objectives:	Whether objectives or behaviours we should think very carefully before we consider making decisions lawful. Lawful is another issue that might just make lawyers ever richer when money is tight we should be looking for more sustainable ways to ensure we deliver sustainable solutions. It should as stated become a way of thinking and living and not be another layer of compliance red tape.
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?:	Population growth is always a barrier to sustainable living, let alone development. Development itself is a barrier to sustainable development. Is there ever any such thing!
What are your views on basing a duty around a	I think this gives a simpler view and approach to something that could otherwise become too convoluted.

single sustainable development proposition?:

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

As time has a cost this should be built in to the review process over the next few years enabling training to be undertaken and not just superficial buy-in.

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?:

The new body, this would give it the credence required for ongoing interaction.

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?:

21. Let these become obvious during the development phase.

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 my area of expertise.

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

It should certainly be an element of this as annual reports should derive from the organisations Strategy / Plan therefore reporting is defined by this.

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

24. There are arguments for and against including public health bodies. Overall I think we may benefit if they are included and there is a duty to provide for example more equal access to facilities, however this might be achieved.

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

The Sustainable Development Body should be the exemplar!

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

26. We can aspire to a sustainable environment. whether we could ever truly achieve this is debateable whilst the world's population is growing at its current rate.

If we were to define "sustainable development"

27. The first bullet is a fair statement for the process at a human interaction level. The second point is more

<p>do you think that the working definition above would be suitable and why?:</p>	<p>difficult. If we state enhance whilst we are still degrading it it is meaningless. We need to state the basic principle of ensuring that our natural environment and the earths resources are used in a way ensures that future generations have access to the same richness of natural and cultural resources that we have had. (No losses is a big ask let alone gains).</p>
<p>What should be the overall purpose for a new body?:</p>	<p>The main duty initially will be to support the process that we will all have to go through to address this new duty.</p>
<p>Do you have any views on the preferred approach regarding the main functions of a new body?:</p>	<p>The third option to advise and guide. To be truly sustainable may not even be remotely achievable, therefore the heavier hand approach implied with the other options is not preferred at this stage. Where necessary the enforcement aspect can be developed only if necessary and an obvious need develops.</p>
<p>Are there significant disadvantages to establishing a new body on a statutory basis?:</p>	<p>30.</p>
<p>Do you agree with the proposed functions for a new body established on a statutory basis?:</p>	<p>More or less! This would give the Body the basis for effective functioning and could be built on..</p>
<p>Are there other functions which should be considered?:</p>	<p>32. I would agree with the proposed additional functions outlined at 166 in the consultation document.</p>
<p>Do you have particular views on the independence of a new body?:</p>	<p>Independence is vital.</p>
<p>Do you have particular views on the accountability arrangements for a new body?:</p>	
<p>Do you have any other related queries or comments?:</p>	<p>Why on earth weren't the paragraphs numbered, it would have made filling in this form so much easier. The questions are all major ones and each could be supported by a PhD on its own. Not a consultation that encourages interactions and responses!</p>



SD Bill Team
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

17th July 2012

Dear Sir / Madam

The Sustainable Development Bill Wales: A perfect opportunity to enhance our commitment to Fair Trade.

Fair Trade Wales welcomes the consultation on the Welsh Government's proposals on the Sustainable Development Bill. We strongly support plans to introduce a commitment which would make Sustainable Development the "central organising principle" for the Government and public bodies in Wales.

This letter is in response to your request for views, in line with your six headings.

i) Approach to a sustainable development duty that applies to organisations delivering public services

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 to clear actions by the Welsh Government and devolved public sector in Wales, which would **use and promote ethical, fair trade and sustainable procurement by the public sector**.

A separate **Ethical/Sustainable Procurement Bill** should also be considered as a way to deliver specific and complex aspects of the legislation that may be too detailed for the SD Bill. Scotland are currently considering this avenue and it would be a good opportunity to build on our leadership in this area and share learning.

Continued support for **Education for Sustainable Development and Global Citizenship (ESDGC)** in formal and informal settings is vital to continue the momentum built over previous years. ESDGC should be identified as the key strategy to promote sustainable practices, behaviours and actions, to deliver global citizens for the future.

ii) Approach to the role and functions of a new independent sustainable development body

We support the principle of having a Commissioner for Sustainable Development who should become a champion for future generations, people in developing countries and those living in poverty in Wales. Unsustainable development impacts us all. The Commissioner should be **independent** of the Welsh Government. The Commissioner should be both empowered and required to **investigate and take action** on failures by government and public bodies in Wales to comply with the provisions of the Bill. However, one of the new body's objectives should be to establish public understanding of the issues

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and, by persuasion and preparation of clear information, work towards a common understanding of, and acceptance of, the importance of sustainable development, both for Wales and more widely.

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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

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iii) **Barriers to taking more long-term, joined-up decisions, and how to remove them**

The bill should allow for **inter-departmental understanding, ownership and discussion**; it will have to **cross-cut all portfolios** in order to be effective. There should be **clear guidance & financial support for training, empowerment and delivery**. Government and public sector staff will need to be **fully aware, proud of and support** the ideals of sustainable development. Following a recent European Court Judgement [1], it will now be easier to require Fair Trade products as part of a tender. Previously, Fair Trade could be requested, but not awarded points within the tender process. The European Court states that in this specific case, the directive accepts that contracting authorities are authorised to choose the award criteria based on considerations of an environmental or social nature. There is therefore a precedent that the ethical trademarks (e.g FAIRTRADE) can be used in evidencing award criteria for social and environmental requirements. A recent European Court [1] ruling confirmed the ability to include Fair Trade criteria in public procurement. Therefore **the inclusion of Fair Trade in public sector tenders** would be a sustainable approach to duty and delivery, would remove any barriers that may exist and/or arise and would provide opportunities for promoting good practice. By outlining **ESDGC as the key strategy** to promote and deliver sustainable practices and actions, we will increase the opportunity to create a generational shift and remove future barriers to sustaining our nation.

iv) **Evidence on promoting sustainable development**

The Fair Trade Nation campaign has been very successful in Wales with **55% of schools, 75% of towns, 82% of local authorities** promoting, supporting and learning about **Fair Trade**, and seeing it as a tool for **international sustainability and global citizenship**. This model could be scaled up or utilised to implement other actions. The key to success of Fair Trade Nation status is ownership from grassroots to government. Cross-sectoral approaches, from creation to implementation will be vital. About **86% of the Welsh public [2]** recognise the FAIRTRADE mark and a total of **£1.31bn was spent** on FAIRTRADE products in the UK in 2011, an **increase of 12% despite a recession**. It is clear that through **promotion and action**, we can improve the **sustainability of our supply chains, the lives of the farmers upon which we depend and minimise our impact on the planet**. We have a responsibility to do so. The success of ESDGC, with schemes like Fairtrade Schools, Eco Schools and Healthy Schools, is clear evidence of ownership and understanding of the issues as well as impact. The momentum needs to be maximised and utilised and seen as pivotal to the success of delivering the sustainable future of Wales. Every child in a Welsh school should know about the importance of "using only our fair share of the earth's resources and sustaining our cultural legacy" [3].

v) **Reviewing existing legal duties and simplifying them in the proposed Sustainable Development Bill**

The recent European Court Judgement [1] makes it easier to include **Fair Trade** as a criterion in tender processes. This simplified approach will ensure that we can meet our new legal duties and build on our existing commitment to help ensure sustainability.

vi) **Advantages and disadvantages of defining "sustainable development" in law**

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**.

Definition

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 supported, along with the Bruntland Commission Report's [4] position *"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs"*.

We would also like to share with you the hundreds of conversations we have had with the general public on this matter and have urged them to contribute to your consultation.

For example, during the Green Horizons festival we asked the following question:

"As Wales considers its position on a Sustainable Development Bill, do you agree that the Welsh Government and public bodies should have a responsibility to procure Fair Trade products and support people in Wales and abroad."

We are delighted to report that 51 signatures were received. (It is normal to receive between 5-10 signatures a day at these type of events. We have details of these individual should you require them.) We strongly believe that these 51 voices should be heard and considered when you are determining the details surrounding the bill.

Thank you for giving us the opportunity to feed into what is an important landmark in Wales.

Elen Jones

Elen Jones
National Co-ordinator, Fair Trade Wales

Notes

[1] North Holland case ruling on 10 May 2012 (Case No:368/10) has provided much-needed legal clarification by confirming that Fair Trade criteria can be included in public procurement. The reasoning of the European Court is good news because it goes further than the European Commission in confirming that it is **legally possible** to give extra points to products meeting the Fair Trade criteria. This means that Fair Trade, and in particular FAIRTRADE products, can be stipulated legally within tender processes. Fair Trade Suppliers can now score higher than potential non - Fair Trade suppliers and therefore Fair Trade can be embedded into all procurement tenders in Wales. For more information visit <http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-05/cp120060en.pdf>

[2] CAPi Omnibus survey - tns. March 2010 Symbols(QS7219 - 611210) Q2 Table 1

[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.

[4] The Bruntland Commission produced a report which defined sustainable development as requiring 2 key concepts:

the concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and

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- the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs."

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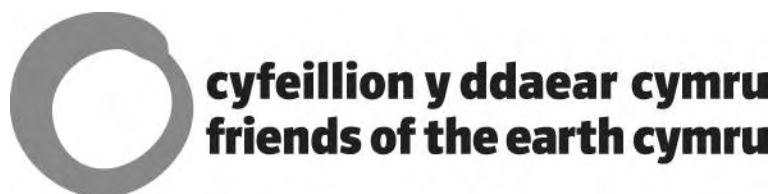
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July 2012



Welsh Government Proposals for a Sustainable Development Bill Friends of the Earth Cymru consultation response

1. Introduction

Friends of the Earth Cymru welcomes the opportunity to respond to this proposal for a Sustainable Development Bill and warmly welcomes the Welsh Government's commitment in its programme for government to legislate for a sustainable future for Wales. We agree with the need for a duty on public bodies in Wales and for a new independent body to be established.

These proposals are the beginning of the legislative process and offer some analysis of the situation. However we feel that greater clarity, ambition and sense of urgency is necessary if the proposals are to be turned into an effective and purposeful law that will be a safeguard for future generations and Wales' global impact.

1.1 International context

The Rio+20 Summit was not the ground breaking step that many of us hoped it would be, but it did bring together representatives from nations, NGOs and businesses from across the world who strive to set us on a course to sustainable development, and a declaration that set in place a process to establish global Sustainable Development Goals

And although there has been ever increasing recognition of sustainable development (SD) and sustainability since the original Rio Earth Summit, this has not led to a step change in our behaviour, legislation or institutional structures, and the global actions of the past 20 years have created a state of unprecedented planetary emergency:

"The human pressure on the Earth System has reached a scale where abrupt global environmental change can no longer be excluded. To continue to live and operate safely, humanity has to stay away from critical 'hard-wired' thresholds in the Earth's environment, and respect the nature of the planet's climatic, geophysical, atmospheric and ecological processes."¹

¹ <http://www.stockholmresilience.org/research/researchnews/tippingtowardstheunknown.5.7cf9c5aa121e17bab42800021543.html>

We have already breached the safe operating space (or boundaries) for three of nine key planetary systems (climate change, biodiversity loss and excess nitrogen and phosphorus production), and risk.

“Research now demonstrates that the continued functioning of the Earth system as it has supported the well-being of human civilization in recent centuries is at risk.”²

“Energy-related CO₂ emissions are at historic highs; under current policies we estimate energy use and CO₂ emissions will increase by a third by 2020, and almost double by 2050. This would probably send global temperatures at least 6°C higher within this century.”³

As we confront these massive environmental problems, we face societal problems that need not exist in the 21st century: some 1 billion people lack access to nutritious food; 2.7 billion lack access to clean cooking facilities, and breathe in smoke which damages their lungs as they cook; 2.6 billion lack access to basic sanitation⁴; 793 million adults – two thirds of whom are women – are illiterate⁴; and 1.4 billion people live on less than US\$1.25 a day⁵.

Behind each of these statistics is a human family or community whose story could be so different if the political will existed to make it so. As the people with the least struggle to survive, the consumption habits of the richest are stripping the earth of its resources:

“The biggest source of planetary-boundary stress today is excessive resource consumption by roughly the wealthiest 10 per cent of the world’s population, and the production patterns of the companies producing the goods and services that they buy.”⁶

There is an urgent need for humanity to shift course, and put the needs of the Earth and future generations above short-term gain. This will mean charting a course away from current values and expectations, developing societies and economies that support life and the Earth beyond the end of this century.

Friends of the Earth suggests that returning SD to the heart of national and international politics is the only way to recover from the triple-headed crisis we face. The UK Government’s definition of SD is, “living within the planet’s environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.”⁷

Real sustainability would see our economy delivering social justice within environmental limits. The world has been gripped by a focus on short-term economic growth for too long. The current crisis demands a longer-term lens and an ambitious and urgent approach.

² http://www.planetunderpressure2012.net/pdf/State_of_the_Planet_Declaration.pdf

³ http://www.iea.org/press/pressdetail.asp?PRESS_REL_ID=436

⁴ http://www.un.org/gsp/sites/default/files/attachments/GSP_Report_web_final.pdf

⁵ <http://www.worldbank.org/en/news/2008/09/16/new-data-show-14-billion-live-less-us125-day-progress-against-poverty-remains-strong>

⁶ <http://www.oxfam.org/sites/www.oxfam.org/files/dp-a-safe-and-just-space-for-humanity-130212-en.pdf>

⁷ From the NPPF, <http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

We know that we can choose to fix the problems that confront us – and see nature better protected and people across the world enjoying a better standard of living. This Bill could provide the political momentum and institutional framework to take this forward in Wales, but only if it makes a difference to the decisions we make.

1.2 Welsh context

Wales has a long track record of international solidarity, progressive politics and valuing equality and fairness.

From the first Act establishing the Assembly, Wales has had a duty to promote SD enshrined in law. One of the few countries across the world to have such a duty, this has been a source of great pride and sustainable development is, as Jonathan Porritt wrote recently, “in the Welsh Assembly’s DNA”⁸.

And in operating its devolved powers successive governments have taken bold decisions in relation to people’s rights and planning for a sustainable future, for example establishing a Children’s Commissioner and Older People’s commissioner, banning smoking in public places, charging for single-use carrier bags and choosing to appoint a Commissioner for Sustainable Futures when the UK Government abolished the SDC.

These are excellent examples of devolution delivering for Wales; protecting the vulnerable in society, thinking innovatively, breaking new ground and acting in the long term interests of people and the planet.

The Sustainable Development Bill should be viewed in this context and should aim to be equally ambitious and radically. As Environment Minister John Griffiths said on returning from Rio+20;

“It is clear that smaller countries, like Wales, can show a lead and set examples in how to create sustainable places and practises. In Wales, we now have the opportunity to further demonstrate this by creating our own ground breaking legislation on Sustainable Development.”⁹

And the Rio+20 text recognised that much of the work would be led by regions and sub-national governments such as the Welsh Government.

The 2009 “One Wales: One Planet” SD scheme was pioneering, recognising that we use resources as if there were three planets, rather than our fair share of one planet, and setting a strong vision, outcomes and indicators on SD in a policy context.

And now that we have legislative powers in Wales we can move beyond a scheme or plan and set the building blocks of a long term sustainable future. The very nature of SD requires long term thinking and is particularly suitable for legislation; to give stability and certainty

⁸ http://www.guardian.co.uk/environment/blog/2012/jul/11/wales-sustainable-development?CMP=tw_t_fd

⁹ Written Statement by the Welsh Government, ‘Visit to Rio+20’, 29 June 2012

for bodies to adapt and create a different culture, and to avoid the political whim of governments without full scrutiny - as was seen when the UK coalition government abolished the UK Sustainable Development Commission.

1.3 Role of civil society and key points

There is already a high level of civil society interest in this Bill, and an eagerness to make it as strong as possible and worth the time and effort involved. We are still at a pre-legislative stage and this is of course a first-stage consultation, but there is broad consensus on the shape of the Bill and key elements within it from third sector organisations including; Stop Climate Chaos Cymru, the Welsh Council for Voluntary Action, the international development sector and environmental charities. We have shown a willingness to work with the Welsh Government and the public sector in shaping this Bill and an appetite for a strong and ambitious Bill that will be the foundation for a step-change in decision-making and implementation of policies and services in Wales.

Some of the key points that have been agreed by civil society organisations are:

- Scope and duty

The new duty must be substantially stronger than the present duty¹⁰ 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 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 which would become the main mechanism for achieving sustainable development. We would expect the duty to lead, within a specified timetable, to clear actions 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

¹⁰Section 79, Government of Wales Act 2006

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 “One Wales One Planet” reference to “using only our fair share of the earth’s resources”¹¹ is an important element, as is the UK SD Strategy’s five guiding principles¹². 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.

In addition, Friends of the Earth Cymru believes that the Bill should empower the right to participate in environmental decision-making in Wales by recognising the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters¹³ (Aarhus Convention), which is based on Principle 10 of the 1992 Rio Declaration¹⁴, and implementing it fully in Wales. This is crucial to enable people to engage with and shape decisions that will bring about a fair transition to sustainability. This Bill and other bills which are envisaged by the Welsh Government must all seek to empower the right to participate – for instance the Planning Bill is key to both participation and decision-making on sustainable development.

As the UN Global Sustainability Panel report “Resilient people, resilient planet – a future worth choosing” said earlier this year;

“The truth is that sustainable development is fundamentally a question of people’s opportunities to influence their future, claim their rights and voice their concerns. Democratic governance and full respect for human rights are key prerequisites for empowering people to make sustainable choices....[At the same time,] local communities

¹¹ <http://wales.gov.uk/docs/desh/publications/090521susdev1wales1planeten.pdf> p.8

¹² <http://www.defra.gov.uk/publications/files/pb10589-securing-the-future-050307.pdf> p.16

¹³ <http://www.unece.org/env/pp/introduction.html>

¹⁴ <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm/>

must be encouraged to participate actively and consistently in conceptualising, planning and executing sustainability policies.”¹⁵

This Bill should also establish the right to live in a healthy environment and protect it for the benefit of future generations, and initiate a Charter of Environmental Rights. This right has been acknowledged by about 120 constitutions around the world including 8 European states¹⁶, and the Council of Europe’s Parliamentary Assembly has recommended its addition to the European Convention on Human Rights. We endorse the proposal laid out in the WWF Cymru discussion document “The National Assembly for Wales and Taking the Longer View”¹⁷.

If we had a right to a healthy environment in Welsh law, it would go much further than the Aarhus Convention’s other rights in enabling communities to improve the places where they live. The courts have considered human rights in relation to environmental issues, but the right to a healthy environment would give courts a clear mandate to get stuck in to environmental protection issues, rather than taking the view that they can only get involved in very limited circumstances. So the right could be used to challenge highly polluting or carbon intensive developments, giving courts the ability to consider whether the economic advantages outweigh the interference with environmental rights. A right to live in a healthy environment could also deliver justice for communities not covered by other Aarhus rights. Public bodies would take future generations into account when they make policy.

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”¹⁸. We share those aspirations and welcome the opportunity to play a part in shaping this legislation.

2. Consultation questions

We wish to respond to the following specific questions in the consultation document, which we have grouped together under sub-headings.

¹⁵ http://www.un.org/gsp/sites/default/files/attachments/GSP_Report_web_final.pdf, p.10

¹⁶ Taking the longer view: UK governance options for a finite planet, a report by Peter Roderick for WWF-UK and the Foundation for Democracy and Sustainable Development, http://www.wwf.org.uk/wwf_articles.cfm?unewsid=4545

¹⁷ http://assets.wwf.org.uk/downloads/discussion_document_by_peter_roderick_the_national_assembly_for_wales_and_taking_the_longer_view.pdf p.27-28

¹⁸ Written Statement by the Welsh Government, ‘Visit to Rio+20’, Minister for Environment and Sustainable Development, 29 June 2012

2.1 The duty

2.1.1 A duty on what level of decisions

Questions 4-8

The sustainable development duty is relevant to all decisions that impact on the sustainability of Wales.

Whether this would be achieved by the Welsh Government's preferred option of a high level duty on strategic decisions only is doubtful, unless there is a strong mechanism to explicitly explain how the duty would run from the strategic level to everyday decision making.

The process of decision-making needs to change, so that everything from procurement and funding to evaluating and monitoring are carried out with due regard to SD principles. This should apply to the public functions and internal strategies of the relevant bodies.

The Government should provide clarity on how it can be assured that placing a duty on high level decisions only will avoid unsustainable decisions from being made in other cases. Unless this can be assured and unsustainable decision making is made illegal then the duty should apply to all decisions.

We believe that it is particularly important for budget proposals to be subject to a duty so that financial decisions are not taken on the grounds of cheapness or a simple cost-benefit analysis that does not have sustainability at its heart. Financial departments should take into account not just the financial costs but externalities such as social and environmental costs.

As the Environment Minister said on departing to Rio+20;

"It 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."¹⁹

2.1.2 Sustainable development factors

Questions 9-17

The wording, or even nature, of the duty is not made clear in the current proposals. There is discussion over which bodies and which decisions, but a lack of consideration to what the duty would be asking them to do. The proposal mentions promoting SD, making it a central organising principle or even decision-making "informed" by sustainable development thinking, all of which are weak and unclear formulations.

It is difficult to see what would be illegal under such duties and lends itself to a tick-box attitude of having to show that sustainable development has been considered, rather than

¹⁹ Western Mail, 'Environment minister John Griffiths flies to Rio for sustainable development summit', 15 June 2012

focusing on the outcome and effect.

Of the four options given as sustainable development factors, a combination of the behaviours and objectives approaches would seem the most appropriate. However this is insufficient ground to base the duty on. There has to be a clear definition of SD and **a focus on actions and outcomes in decision-making**.

The Welsh Government should set out in the White Paper a clear and strong duty requiring the organisations subject to it to exercise their duties and powers **in order to achieve SD**. The formulation of this wording should be developed with support from legal experts, and Friends of the Earth is happy to assist with this process.

Cultural change within institutions and bodies is important to long term sustainability but is not in itself enough to be a legal duty that will be effective.

We would like to see a process diagram in the White Paper showing how the duty would work in practice for different organisations, including reference to public participation.

2.1.3 Organisations that might be subject to the duty

Questions 24-25

There is some confusion as to the government's preference of which bodies might be subject to a duty, with a very limited list of public bodies on page 39 of the consultation document, but a much longer list referred to at a consultation event, but not seen by consultees²⁰.

Schedule 6-8 of the Welsh Language Measure 2011 provides an idea of the categories and bodies which could be subject to a duty under this Bill, including public bodies and those receiving over £400,000 in public money²¹.

Friends of the Earth Cymru believes that in order to achieve sustainable development in Wales the Welsh Government should apply the duty to as wide a range of bodies as is possible under its powers. We recommend that the Welsh Government investigate options for doing so under existing legislation such as the UK Equalities Act 2010 and Welsh Language Measure 2011.

2.2 Definition

Questions 26-27

It is crucial to the working of the Bill that there should be a legal definition of sustainable development on the face of the legislation.

A legal definition is necessary for the sake of legal certainty, as a basis both for the operations of bodies subject to the duty and as a basis of legal recourse if it is contravened.

²⁰ Jennifer Pride, SD Bill consultation event, Park Inn Hotel, Cardiff, 25 June 2012

²¹ http://www.legislation.gov.uk/mwa/2011/1/pdfs/mwa_20110001_en.pdf

It would also ensure consistency and coherence within the developing Welsh body of legislation, and could be referred to in forthcoming legislation such as the Planning Bill.

It must be clear and meaningful enough to guide action and to be implemented, and specify that the global implications of actions must be taken into account, including the use of resources overseas, not only within Wales.

The footprint of our resource use in the four key indicators of land, materials, water and carbon should be measured and taken into account, as a study commissioned by the European Commission recently recommended²².

The public sector's purchasing of services, goods and works contracts is a significant amount of public expenditure, thought to total around £4.3bn a year. 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.

This Bill should be the cornerstone of tackling inequalities within Wales and a vehicle for engendering social justice. Some communities in Wales are disproportionately affected by environmental problems and suffer very poor health and educational attainment, all issues relating to SD. An Equalities Impact Assessment should be carried out of the Bill itself and the engagement and participation process.

The UK SD Strategy's five guiding principles;

- operating within environmental limits,
- ensuring a strong healthy and just society,
- achieving a sustainable economy,
- promoting good governance and
- using sound science responsibly²³

should be taken into account, and the "One Wales One Planet" reference to "using only our fair share of the earth's resources" and "social justice" are important elements to be reflected, although the wording needs to be strengthened and measurable.

The Welsh Government should take this opportunity to ensure that the Aarhus Convention provisions are met in this Bill, so that people are enabled to use their right to participate in environmental decision-making in Wales, and have access to information and access to justice.

Further discussion is needed on the exact wording of the definition, and civil society organisations are working together to propose suitable wording.

Some benchmarks are that it should be a recognised definition, has to be practically implementable and it should be worked out how it would apply in practice. The end aim should be wording that is meaningful and practical in decision-making rather than well-

²² http://ec.europa.eu/environment/resource_efficiency/news/up-to-date_news/5072012_en.htm

²³ <http://www.defra.gov.uk/publications/files/pb10589-securing-the-future-050307.pdf> p.16

meaning but woolly words.

In terms of process, the definition should be tested in relation to decision making, the wording of the duty and consideration of the relevant bodies. For example if we take the five principles of the UK SD Strategy and apply them to a flood defence strategy the questions to be asked in relation to the duty would be:

- sound science - what is the evidence to support the actions you are taking?
- social justice - does this strategy protect the most vulnerable? Are there any people disadvantaged by this strategy?
- environmental limits - does it deal with the fact of climate change adaptation
- sustainable economy - how will it help the local economy? Does this create barriers to any local economic activities? Are there unsustainable economic activities that need to be addressed by this flooding strategy?
- good governance - have people been able to have their say on the strategy? Have elected representatives scrutinized? Has there been proper information provided? Has everyone affected been able to raise issues? Is there a proper complaints and oversight mechanism for the creation and implementation of the strategy?

A similar process should be undertaken to arrive at an appropriate definition for Wales.

2.3 A new body

Questions 28-34

Friends of the Earth Cymru believes that a new and independent sustainable development body should be established on a statutory basis, charged with being a champion for sustainable development in Wales and ensuring that the relevant bodies meet their duties under this Bill.

We agree with the analysis of having a statutory body, in particular paragraph 164 that establishing it through the democratic process enhances its mandate and legitimacy. It also gives it an element of certainty and durability, avoiding the possibility of being abolished in the same way as the UK SDC, as was previously mentioned.

We believe however that it needs to have a stronger role than the preferred option outlined in this proposal. There is a role for a “critical friend” and advisor, particularly at early stages of implementation, but this has to be backed up by a ‘stick’, an ability to challenge and review decisions and be a champion for future generations as well as those in poverty in Wales and around the world who lack a voice.

There is no explanation of why the new body should not have a role in compliance with the duty, and no justification for rejecting the ombudsman model, or an element of this role.

We support a combination of an ombudsman model that can act as an advocate and scrutiny function with powers to investigate and take action on failures by bodies subject to the provisions of the Bill. Such a model has been considered in a Welsh context by environmental barrister Peter Roderick and we endorse the analysis he presents in relation

to considering the Hungarian Commissioner example and elements of the Children's Commissioner role in Wales.²⁴

The Compliance Committee of the Aarhus convention is an option that is not mentioned in the proposal, and could be worth investigation. Any person can make a complaint to the compliance committee if they believe public authorities have not complied with the convention and its regulations, which the committee then investigates and reports upon²⁵.

Further information is required about the role the Auditor General for Wales could play as a scrutiniser. We are surprised that there are no relevant consultation questions regarding this crucial element and would like assurance that there will be opportunity to consider this option in the discussions on the Sustainable Development Bill and that it is not a fait accompli.

The Auditor General and Audit Office are strong and well respected, but we would question whether it has the expertise to carry out such detailed scrutiny in relation to SD and how regular this scrutiny would take place. Its current purpose is to ensure the best possible value for money for the public pound, with a specialisation in financial auditing. There could be a risk that scrutiny by such a body would focus on finance rather than SD concerns. We seek assurances that appropriate specialisation was in place to carry out this work.

Even if this was achieved, it is a wide ranging body and would not be focused on SD. Adding the duties under this Bill to a list of auditing issues in a tick box manner is certainly not sufficient, and scrutiny in relation to sustainable development must be explicitly set as its overarching and central purpose.

Independent scrutiny is essential to hold the government and public bodies to account. The UK Government no longer has any body that can hold it to account on SD and its decisions suffer as a result, allowing it to slip off the agenda. We mustn't repeat that mistake here in Wales when we have the opportunity to get it right from the word go.

It is implicit in the language around SD in Wales that building a sustainable future involves everyone, and impacts the wellbeing of all, not just a matter for government. The new body has to have a public facing role as a champion of SD for the people of Wales and future generations, not just a bureaucratic friend of public bodies carrying out internal conversations behind closed doors.

The Welsh Government should present a more reasoned argument and evidence for their preferred approach, and reconsider all the available options.

3. Conclusion

The Government of Wales has the boldness and political will to set ground-breaking

²⁴[http://assets.wwf.org.uk/downloads/discussion document by peter roderick the national assembly for wales and taking th.pdf](http://assets.wwf.org.uk/downloads/discussion_document_by_peter_roderick_the_national_assembly_for_wales_and_taking_th.pdf) p.23-26

²⁵ <http://www.unece.org/env/pp/ccBackground.html>

sustainable development legislation that can set us on a course to a sustainable future. This Bill could be a global example of how to take forward the Rio+20 declaration and set a precedent for how to move towards achieving SD.

There are numerous reasons to make here and now the time for action - new powers, cross-party commitment to sustainable development and strong natural resources and affinity to the environment. It's also a limited time for action. As the Environment Minister noted during Rio+20;

"The world is set on an unsustainable course and the window for action is closing. It is clear that progress can happen quickest at regional level with regional governments being the true leaders in sustainability."²⁶

Responding effectively to the societal, economic and environmental crisis demands rapid and radical changes in the way that we live and work. A global transition needs to take place as swiftly as possible and the next ten years will be crucial to avoid environmental catastrophe. It will require a transformation of our energy system and a radical overhaul in the design of our buildings and towns. It will entail huge changes in how we manage our land, freshwater and seas, in what and how we produce and consume, and in how we manage markets and deliver an economy within environmental limits. As Gordon Brown's former Advisor, Professor Michael Jacobs, said recently;

"Capitalism is in a deeper hole than has generally been recognised. It faces not just the economic and financial crisis with which we are all familiar, but deeper crises of environment and quality of life as well...To address all three crises a synthesis of social democratic and green thought is required. But this will need a new political economy which recognises the interdependence of the three economies of market, environment and society; and seeks to restrain the forces of the market economy to prevent their creation of net disvalue to human wellbeing and society. In turn this will require a political theory which recognises the limits of individualism and finds new sources of collective identity and new forms of collective agency. It is quite a challenge. But it is the challenge that the gravity of our condition, and the interests of our children, demand that we meet."²⁷

The Bill at this pre-legislative stage already has the engagement of civil society and could inspire the wider public as to the value of the legislative powers. Public bodies and many others are at cross-roads due to financial austerity and restructuring in many sectors, and are looking for a different way of working, which sustainable development can help achieve. Clear direction and leadership is needed from the Welsh Government to take this forward and the Bill is a perfect opportunity to lead the world and show what can be done.

We hope that Welsh Ministers can go to the Rio+25 summit as an exemplar not just of individual positive actions and policies within central government, but of embedded and structural implementation of SD across a nation.

²⁶ Welsh Government press release, 'Wales' commitment to sustainability is on the map after Rio conference', 22 June 2012

²⁷ 'The Green Moment?: The crises of capitalism and the response of progressive politics', public lecture by Professor Michael Jacobs, 24 January 2012

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Public Health Wales believes that there are a number of structural and attitudinal barriers to taking a more long term and joined up approach to decision making. These include: organisational stability, silo working, short term planning arrangements, financial pressures and organisational culture. Key to achieving a number of the outcomes detailed within the consultation document is the need to work across organisational boundaries and in partnership. This will require; joined up working across Welsh Government departments, the public sector, private sector, third sector and within individual organisations. The achievement of the outcomes detailed within the document will require focused action across the public sector and within organisations.

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

Organisational decision making must focus upon sustainable outcomes, such as those detailed within the consultation document, and move away from traditional departmental silo working and agendas. A key aspect of this is the need to ensure organisational stability.

Support for this approach is demonstrated in a number of recent strategic documents, such as Programme for Government and Together for Health, and examples of best practice and effectiveness highlighted. This commitment is reflected in the Health Improvement Review, which will be undertaken by Public Health Wales in partnership with key stakeholders, such as the Welsh Government, health boards, Welsh Local Government Association (WLGA) and third sector. The traditional annual cycle and approach to finance and planning is also a key challenge facing public sector bodies, which can hinder long term planning in relation to strategic and service developments. However, the change in emphasis by the Welsh Government to consider a more long term approach, which is reflected

in Programme for Government, Together for Health and Fairer Health Outcomes for All, presents an opportunity to consider a more sustainable approach in the future. Public Health Wales believes this shift is vital to achieving the long term public health and sustainable development outcomes, which are detailed within the consultation document. An example of this approach is reflected in the work Public Health Wales has undertaken in relation to early years. The current financial pressures and the focus on short term savings deter consideration of the longer term implications of current action and a focus on the planning, development and implementation of long term sustainable solutions. This results in organisations making short term decisions to meet financial targets rather than investments that lead to more sustainable ways of working. Therefore, Public Health Wales believes potential new funding opportunities should be explored, which would provide an opportunity to consider different approaches through pilot programmes (see response to question 10). Wales faces significant attitudinal barriers at all levels, which have resulted in sustainable development failing to become embedded as the central organising principle within organisations. Organisational and departmental perceptions continue to vary in relation the risks of current activities on the ecosystem and the scale of importance that should be placed on sustainable development.

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

The Sustainable Development Bill, which enshrines sustainability as a central organising principle and proposes placing a duty upon organisations, has the potential to provide the catalyst and driving force to reduce and remove the barriers detailed above. As part of this process, the Welsh Government, Wales Audit Office (in their scrutiny role) and the body responsible for the functions proposed within the document (see response to question 28) have a key role to play in supporting partnership and cross government working, the development of a more long term approach, addressing attitudinal barriers and providing advice and guidance. There is already a great deal of information available for individuals and organisations on the need for sustainable development and the ways in which society can seek to achieve it. However, action is needed to stimulate a quantum shift in public opinion and prioritisation of sustainable development, in order that this might be reflected in the way organisations operate. Some commentators have expressed concerns that such a shift will not take place until a catastrophic tipping point is reached (e.g. Hancock, T., ‘It’s the

environment, stupid! Declining ecosystem threat is THE threat to health in the 21st Century”, Health Promotion Int., 26, Suppl 2, pages ii168- ii172, Dec 2011). Public Health Wales believes that the commitments detailed within the consultation document could be the starting point for this change and are therefore welcomed. However, this needs to be borne out in the dealings of respective organisations at all levels. The culture of short-termism is embedded in the public sector in Wales, as organisations seek to achieve savings and short term performance targets rather than invest in longer term solutions. Until this is addressed the outcomes detailed within the document will not be achieved. Public sector bodies also have a responsibility to act as good corporate citizens and undertake work to embed sustainable development. However, significant work is needed to truly embed sustainable development within all levels of organisations. The approach taken to sustainable development within the consultation document includes; social, economic and environmental factors. Therefore, consideration must be given to existing legislation within these areas to avoid duplication and ensure any new arrangements are consistent and complementary.

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? :

Public Health Wales believes that the newly established arrangements for sustainable development reporting in annual reports will provide a useful source of information and opportunity to consider how well it has been embedded within organisations.

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

Yes. Public Health Wales believes that by focussing upon higher level decisions there will be a greater impact upon organisational behaviour and in achieving the outcomes detailed within the consultation document.

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

Public Health Wales believes that sustainable development should be the central organising principle underpinning all decisions within an organisation and articulating what this means would ensure that there is sign up at all levels. However, this has the potential to pose challenges to organisations, regarding such things as decisions in relation to the reconfiguration and modernisation of clinical services, and any duty would need to provide enough scope to reflect these issues. An example of this relates to recent screening programme improvements, which have required the use of more

sophisticated equipment that has resulted in increased energy consumption.

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

See response to question 5.

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

Yes. Public Health Wales strongly supports the inclusion of decisions that govern organisations' internal operations, as they form a vital part of the wider sustainable development agenda. Consideration should be given to: • Procurement • Estates and facilities management • Transport As an organisation, Public Health Wales recognises that it can deliver further improvements in relation to this through investing in energy saving equipment and technology. As an all Wales organisation, a key aspect of this will be the location and type of accommodation used. Public Health Wales is committed to ensuring new buildings incorporate current thinking in relation to sustainable development and offices are accessible through public transport.

Should budget proposals be subject to the duty? Please explain:

Yes. Public Health Wales believes that budget proposals will form a key part of high level decision making in relation to services and strategic developments, which is included as part of the duty. Therefore, it believes that budget proposals should be included as they will form a key aspect of these and other high level decisions over the short, medium and long term.

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

Yes. Public Health Wales believes that all of the behaviours identified are critical to sustainable development and indeed to protecting and improving the health of the people of Wales, as they reflect the similarities in approach to addressing the key issues in relation to each.

Are there critical behaviours that we have not identified? Please explain:

Public Health Wales believes consideration should be given to the inclusion of evidence based thinking as one of the critical behaviours. Decision making should be informed by clear evidence where possible and work should be undertaken in collaboration with academia, relevant Welsh Government departments and the wider public sector to identify and fill any gaps in the evidence. The strategic issues facing organisations, such as service reconfiguration, are complex and can often have a variety of factors and implications that will need to be considered. A strong evidence based is vital to support these decisions and achieve the most sustainable outcomes.

What are the advantages and

In attempting to shift organisational culture towards one

disadvantages of designating behaviours as the sustainable development factors that must influence high level decisions?:	which is longer term, preventative, integrated, partnership and community focused, this approach is highly compatible with that of Public Health Wales and health promotion more broadly. The codification of behaviours as sustainable development factors is important and has the advantage of contextualising sustainable development in words that an organisation can understand. Many of the behaviours are reflected in the most recent strategic documents published by the Welsh Government. However, the risk with this is that some will dismiss the list as “business as usual” and miss the opportunity to re-evaluate their approach in light of the new duty.
is consistent with one, some or all of the behaviours:	Decisions should broadly reflect the behaviours with scope to describe the reasoning behind decisions that appear to run counter to these. As stated, organisations will face challenges and potential conflicts in relation to the impact of sustainable development on decision making. The new duty must provide enough scope to take into account these issues and care will need to be given to ensure that the statutory duties do not become too prescriptive.
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?:	No. Public Health Wales believes that the objectives listed within the consultation document are the key ones that should be considered. However, having such a long list of objectives risks leading to a lack of focus within an organisation and consideration should be given to merging some in order to make it more manageable.
What are the advantages and disadvantages of designating sustainable objectives as the factors that must influence higher level decision making?:	The benefit of designating a set of sustainable objectives is that decision makers would have tangible outcomes to base decisions upon rather than the broad concept of sustainable development. However, the disadvantage of providing such outcomes is the risk that this limits the broad thinking of decision makers, who default to a mindset of ticking boxes and almost inevitably gravitate to those outcomes that are most tangible, that they relate to and are easiest to demonstrate action against.
only if they actively contribute to one or more of those objectives:	It is difficult to envisage what high level decisions in the public sector would fail to seek to address at least one of the objectives detailed within the consultation response. However, it could be envisaged that there may be occasions when there is conflict between the objectives that need to be assessed against the decision being made.

An obvious example may be where economic investment to a community may be on offer in terms of an industrial development, but local residents have concerns for their health and feel that they are disproportionately put at risk because they are in a deprived area. In such an instance, Health Impact Assessment provides a very useful tool through which all of the sustainable development objectives listed can be considered openly, in discussion with the public and professional communities. Health Impact Assessment is one of a suite of impact assessment tools that are tested and available to allow participative assessment of risk and impact. The use of such tools will be necessary in attempting to consider whether decision making is seriously considering the objectives and sustainable development as a central principle.

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?:

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

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

Would it be helpful to issue formal guidance to

Public Health Wales strongly supports the need for, and focus upon, clear outcomes, as well as the behaviours detailed within the consultation document (see question 11 & 14). This dual approach is necessary to ensure that sustainable development is embedded and the objectives detailed within the document are achieved.

As stated, Public Health Wales supports the combined approach, rather than a single sustainable development proposition. The single proposition risks having too narrow a focus and losing sight of some of the key issues reflected in the outcomes and behaviours, which are vital if sustainable development is to become the central principle within organisations.

Following the Bill coming into effect, it is proposed that organisations are given a twelve month implementation period. This will allow organisations sufficient time to make the necessary initial changes to reflect the new duties and roles and responsibilities, such as those to be undertaken by the Wales Audit Office. However, embedding sustainable development within organisations as the central organising principle will require a long term commitment and focus from individual organisations and the Welsh Government.

Yes. However, duplication of resources already available must be avoided. The guidance should outline

organisations subject to the new duty?:	the key issues and proposals and what they will mean to public sector bodies, including the roles and responsibilities of the new sustainable development body (if established) and Wales Audit Office. It should also signpost to other guidance produced for the public sector (e.g. WLGA and NHS documentation.)
Should any such guidance be issued by the Welsh Government or the new sustainable development body?:	Should a new body be established then the guidance should be issued through this organisation. However, Public Health Wales queries whether it is appropriate to establish a new body to undertake this work or whether its roles and responsibilities could be incorporated into an existing body (see response to question 28). Public Health Wales believes it is key to ensure that existing and future statutory duties complement the proposed approach detailed within the consultation document, if the outcomes detailed within the paper are to be achieved. The development of the Bill provides an opportunity to reflect on these and ensure they don't conflict with the approach outlined. The approach taken to sustainable development within the consultation document includes; social, economic and environmental factors. Therefore, consideration must be given to existing legislation within these areas to avoid duplication and ensure any new arrangements are consistent and complementary.
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?:	N/A
Should organisations be required to report back on compliance with the duty through their existing annual reporting arrangements?:	Yes. Public Health Wales would support the use of existing annual reporting arrangement to report on compliance with the new duty.
Are there organisations on this list that should not be subject to the duty? Please explain:	Public Health Wales supports the list included in the consultation document.
Are there organisations that are not listed above but which should be subject to the duty? Please explain:	N/A
Are there other advantages or disadvantages to defining "sustainable development"	Public Health Wales supports the need for a clear definition of sustainable development. The term sustainable development has numerous definitions, yet

and if so, what are they?:	<p>the true meaning and importance has not reached the majority of the Welsh population. A clear definition would give clarity to the duty and support organisations in undertaking the requirements. Having a broad definition as proposed within the consultation document avoids placing constraints on organisations and allows consideration of issues ranging from carbon reduction to sustainable communities. Arrangements to update guidance and amend the definition over time would be required.</p> <p>See response to question 26. Public Health Wales recognises that it is difficult to define sustainable development, particularly in its broadest sense as reflected within the consultation document. However, it is felt that the working definition is suitable, if supported by guidance and examples of what each element means. Consideration should be given to including health as part of the definition and the following amendment is proposed: ‘promote social justice, equality of opportunity and health; and’ Consideration should also be given to the global implications of Wales’ approach to sustainable development and recognition that any policy does not end at Wales’ border but rather extends globally. This approach is reflected in One Wales: One Planet, particularly through reference to ‘using our fair share of the earth’s resources’.</p>
If we were to define “sustainable development” do you think that the working definition above would be suitable and why?:	<p>Public Health Wales does not feel that a strong enough case is made within the document for the establishment of the new body and remains concerned about the additional associated costs. However, the need for the provision of expert advice and guidance to public sector bodies in relation to sustainable development is supported. Consideration should be given as to how these functions could be discharged through existing arrangements.</p>
What should be the overall purpose for a new body?:	
Do you have any views on the preferred approach regarding the main functions of a new body?:	See response to question 28.
Are there significant disadvantages to establishing a new body on a statutory basis?:	See response to question 28.
Do you agree with the proposed functions for a new body established on a statutory basis?:	See response to question 28.
Are there other functions which should be	See response to question 28.

considered?:

Do you have particular views on the independence of a new body?:

Public Health Wales supports the need for independent advice and guidance in relation to sustainable development. However, the need to establish a new body to provide this is questioned. Consideration should be given as to how best these functions could be discharged through current organisational arrangements.

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

See response to question 28.

Do you have any other related queries or comments?:

Public Health Wales recognises that sustainable development and public health are intrinsically linked and that complementary actions are necessary to address the key challenges facing Wales in relation to both. This is reflected in the sustainable behaviours detailed within the consultation document. Through its national and local teams Public Health Wales has a key role in taking forward this agenda, particularly in relation to its community and partnership work and its aspiration to be a good corporate citizen.

To whom it may concern:

Sustrans welcomes the principle of embedding sustainable development in decisions across Wales and the commitment the Assembly and Welsh Government have shown towards creating a more sustainable Wales. However, we are concerned that the discussion paper as it stands has failed to identify tangible ways in which this can be achieved. Sustrans would advocate that for this Bill to be most effective in achieving change, discreet actions and processes need to be identified where local authorities and public bodies across Wales can effect real change.

Our opinion is that one of the most effective ways for this to be achieved is through the analysis and regulation of procurement and employment practices in Wales. The public sector is one of Wales' largest employers (employing more than a quarter of Wales' workforce) and is a significant procurer of goods and services. If a framework was implemented and duty brought into force that required public bodies across Wales to procure these goods and services in a sustainable manner, and to employ people in a manner in-keeping with the principles outlined in the opening section of the report, this would have sizeable impact on Wales' sustainability as a nation.

Procurement and employment (particularly for low-skilled and entry level jobs), have traditionally focused on one criterion; price. Sustainable procurement would broaden this framework, to one which facilitates more qualitative-based decisions. Specifically, the procurement framework should involve the consideration of environmental, social and long-term economic concerns.

Sustrans is confident that this approach would not only have a direct impact on the working practices within Welsh Government and wider public bodies, but would also impact on the suppliers of goods and services seeking to secure government contracts across Wales. Moreover, research has also indicated that organisations adopting a more sustainable approach towards procurement and employment practices benefit from the wider impacts such policies can effect, including economical benefits and higher levels of employee retention.

Secondly, we know that tackling rising emissions from transport will be a key challenge in making our commitment to sustainability meaningful. We would like to see sectoral targets enshrined in the Sustainable Development Bill. The government's commitment to an Active Travel (Wales) Bill is an effective example of how greenhouse gas emissions from transport can be curbed. It is essential that when imposing duties on local authorities, the government demonstrates how these can be linked up and we believe the government should reflect on how the two Bills and duties can compliment each other.

Finally, Sustrans welcomes the introduction of an independent sustainable development body, but feels strongly that such a body must have the powers needed to enforce the duties imposed and should not be limited in being able to only act in an advisory capacity. Admittedly, considerable support will be needed in understanding the principal and in implementing the duty(ies) outlined in the final legislation, but there must also be effective and independent governance to ensure this admirable rhetoric is reflected in everyday practice. It is only if the Bill achieves this that sustainable development will truly become the central organising principle of the Welsh Government and public bodies in Wales.

We would very much welcome the opportunity to discuss these proposals in more detail. Please do contact me if you have any questions or comments on the above, or would like to arrange a time for us to meet.

With best wishes,

Liz

Liz Thorne

Cynghorydd Polisi a'r Cyfryngau / Policy and Media Advisor

Sustrans Cymru

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Your name: Andy Rowland

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What are the principal barriers you face to taking more long-term, joined-up decisions?: Lack of secure and predictable income, that would increase our confidence that we will still be operating in the longer term ourselves

What actions need to be taken, and by who, to reduce or remove these barriers?: We need to secure economic assets. Their acquisition could be assisted by the public sector.

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 evidence is that financial pressures and risk averse officer thinking are driving many public sector bodies in the opposite direction, cutting costs and contracting non-local providers who can offer cheaper delivery in the short term, rather than investing in local capacity and giving much weight to non financial factors. For example, Powys County Council turning their backs on working in partnership with social enterprises in the waste and resource recovery functions. Sufficient attention is not being paid to the way our activities in Wales impact on other countries and how this affects our view of our activities: Wales' carbon accounting will be dishonest and misleading until it reflects properly the "exported carbon burden" implied by importing goods from overseas rather than manufacturing them at home.

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?:

Are there any decisions that

are not captured by this approach which should be subject to the duty? Again, what would these be?:

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

Should budget proposals be subject to the duty? Please explain:

Are all of the behaviours we identify critical to acting in ways that reflect sustainable development thinking?

Please explain:

Are there critical behaviours that we have not identified?

Please explain:

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?:

are there other options?:

Are there core sustainable development objectives we have not identified above?: global justice/equity

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

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?:

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

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

Liability to be subject to interpretation in ways that allow
the duty to become watered down or ineffective, unless
illustrations are given, as suggested.

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
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?:

Perhaps attention could be paid to sustainable
procurement in this Bill

Should organisations be
required to report back on
compliance with the duty yes
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?:

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

yes - not too long, but includes all aspects. I note that the global equity aspect is not reflected in the Minister's introduction.

What should be the overall purpose for a new body?:

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

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

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

yes

Are there other functions which should be considered?:

Do you have particular views on the independence of a new body?:

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

Do you have any other related queries or comments?:

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CF5 2XP

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

Two barriers that we face are: Length of contracts/projects - The nature of delivering specific contracts and projects for a limited life span makes long term strategic organisational planning more difficult. Longer term contracts would help reduce this barrier. Narrow focus of audit - Currently audits tend only to take account of direct costs and direct benefits of service provision and not the indirect benefits and value added as these are often reflected in budget savings elsewhere. For example a local authority that spends more per head on school meals could be criticised if an audit does not take account of the reduction in 'food miles', the increased health benefits for the children receiving school meals and the investment in to local farm businesses.

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

Length of contracts/projects - There have been recent improvements; within the current European Programme for example projects have been approved for a period of 5 years as opposed to 3 years in previous programmes. Also the inclusion of developing an environmental action plan as a cross cutting theme within the European Programme has been welcome. Long term policy commitments from Welsh Government have also been welcome including the 10 year commitment to the initial Communities First Programme. Further improvements could include cross party agreements on key strategy areas of Welsh policy. This could allow operational decisions to be taken beyond current government programmes and beyond one or two terms of the Assembly. Narrow focus of audit - As we look at new forms of co-operation and shared budgets to provide services then audits should look at the direct triple bottom line benefits of an organisation as well as praising the indirect benefits and savings to the public purse beyond that core delivery budget. In addition where Government can

play a role in encouraging sustainable behaviours in return for public funding, this should be considered. The promotion of case study examples that set out what is meant by sustainable development would help organisations move beyond just considering the environmental aspects.

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? :

There are good examples of digital technology transforming business practice in the public, private and third sector as demonstrated on a small scale in case studies from the Welsh Government's Communities 2.0 digital inclusion programme led by the Wales Co-operative Centre. See, for example, <http://www.communities2point0.org.uk/awel-aman-tawe> for an environmentally-based case study. The programme works to demonstrate that ICT can enable all organisations and enterprises to run more sustainably. For example this is done by reducing overheads through the use of open source alternatives to expensive proprietary software and normalising homeworking through the use of email and cloud resources.

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

The proposed level of organisational decision making seems broadly appropriate.

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?:

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

Should budget proposals be subject to the duty? Please explain:

Are all of the behaviours we identify critical to acting in ways that

All of the behaviours identified should have a positive impact on sustainable development thinking. It is also positive that many of the examples used to support these

reflect sustainable development thinking? Please explain:

behaviours include reference to the importance of Social Enterprise and the wider Third Sector. We believe that co-operatives have a particular part to play within “engagement and involvement” as they are owned and controlled by the people who use them. For example a multi stakeholder co-operative developed to deliver care services can be jointly owned by the users of the service, the workers delivering the service and the public body commissioning the service.

Are there critical behaviours that we have not identified? Please explain:

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

Behaviours need to be accompanied by specific examples of how that behaviour is manifested. Sustainability is already poorly understood. Jargon needs to be replaced by clear examples.

is consistent with one, some or all of the behaviours:

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?:

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

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?:

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

A combination seems most likely to effect change, particularly if accompanied by clear examples of good and bad practice.

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

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

It would seem sensible to consider any learning from the introduction of public equality duties to assess the amount of time that should be allowed.

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

Training and education for organisations about the new duty will be essential. This should include written guidance on-line resources and guidance workshops.

Should any such guidance be issued by the Welsh 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

It would seem sensible for organisations to provide robust reports on their compliance to the duty on an annual basis through their existing reporting arrangements.

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?:

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

What should be the overall purpose for a new body?:

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

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

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

Are there other functions which should be considered?:

Do you have particular views on the independence of a new body?:

Compliance with the duty should be seen as best practice. The approach taken by the Welsh Language Act could be followed in that the duty applies to all organisations in receipt of public funding.

A clear definition will allow for ease of understanding and aid the communication of complex information around the behaviours and the objectives. If a clear definition was adopted, it would need to include a review at future points in time.

The definition seems suitable. We believe any definition should include the enhancement of the economic and social as well as environmental well being. We also feel that the promotion of social justice and equality of opportunity should be central elements of sustainable development.

We support the proposed approach for a body that focuses on providing expert advice and guidance and would welcome it if this role was extended beyond organisations subject to the duty. We also believe there is a strong case for a scrutiny role and for a body that can hold organisations to account, be that carried out by the new body or the WAO.

The new organisation should be independent and able to seek independent advice and guidance. If the body were to have a role in holding bodies to account, including the Welsh Government, there should also be a mechanism for

the Welsh Government/ National Assembly to scrutinise the work of the new body in way that does not prevent either side from providing robust feedback about each other when appropriate.

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

Do you have any other related queries or comments?: No

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Your name:

Carole-Anne Davies

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Design Commission for Wales (DCFW Ltd)

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cad@dcfw.org

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Postcode:

CF10 4DQ

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

In our own practice and policy very few. In our work with others: silo culture, silo behaviour, lack of vision, aspiration, knowledge and understanding are the greatest barriers. Absence of strategic planning and a vision for good design for good places. Technical barriers are diminishing rapidly.

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

Government leading by example, good practice in design and built environment quality being pursued and fully committed to. Political and professional leadership and sustainability champions would assist, along with sound arguments used to advocate all benefits of SD integration - not just the 'deep green'. Could make better use of DCfW's advocates and experts and expertise.

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? :

Lack of understanding around the phrase 'central organising principle'. We need clearer pointers for action and the whole issue must be propelled higher up the agenda. A vital element should be that emphasis is not simply placed on energy/performance through BREEAM, Code for Sustainable Homes or Building Regulations. A holistic approach must be better communicated, publicised and implemented. SD is not an expensive add-on but an integrated approach to the way we live - top down and bottom up and vice versa.

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

Yes.

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

Possibly - laws of unintended consequences - but this will need greater detailed attention in formulation of the duty and should not shy away from difficult areas.

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?:

Possibly - as before laws of unintended consequences should be considered along with the need to address tough areas - as above.

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

Yes, providing there is a full understanding of estate management, tenants, ownership etc and what is in whose gift. A key element is getting the built estate right out the outset so that users can/or are supported to behave, live and operate more sustainably.

Should budget proposals be subject to the duty? Please explain:

Yes to properly ensure and demonstrate sustainable credentials.

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

Yes.

Are there critical behaviours that we have not identified? Please explain:

No.

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

Giving more weight to and incentivising positive vital behaviours.

is consistent with one, some or all of the behaviours:

Ideally, high level decisions should be consistent with all behaviours in Paragraph 90.

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?:

There should be more emphasis on limiting resource consumption and use.

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

Pros and cons should be addressed with all implications considered and action fully integrated - not balanced or traded, but integrated.

only if they actively contribute to one or more of

Yes.

those objectives:

if they do not detract from any of the objectives:

Possibly -though the meaning of this statement is unclear and we are therefore unable to answer fully.

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

No.

are there other options?:

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

A key advantage is a more integrated approach.

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

This is currently too vague and insufficiently articulated and therefore difficult to translate into everyday actions.

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

Progress should be swift - this is not a new idea!

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

Yes - but not just guidance, find and use champions and highlight/spotlight good and exemplary practice.

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

Yes and by both.

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?:

Unknown at this time.

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 to our knowledge at this time but would need consideration.

Should organisations be required to report back on compliance with the duty

Yes if this is done meaningfully and intelligently and does not lead to more tick boxing.

through their existing annual reporting arrangements?:

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

Possibly Town and Community Council given their resources, however they should acknowledge and demonstrate that they are working within a sustainable development framework.

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

Page 39 point 120, does not mention the value of the work carried out by the Design Commission for Wales as a wholly controlled subsidiary of Welsh Government. This should be addressed as our fundamental approach is one rooted in SD and the impact of the quality of our built environment and that we are often the only body to have an overview of the whole picture, working holistically, in a multi-agency and multi-disciplinary context, rather than by a particular SD 'strand'.

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

The definition is clear - Brundtland is absolutely clear and remains sound. The sidestepping of actually delivering, by continually worrying about definitions is a red herring and unhelpful to progress.

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

Yes and we would again reiterate Brundtland. A simple statement such as 'Enough, for all forever' is very powerful (African Rio Delegate) but let's be sidetracked by definitions of 'enough'!

What should be the overall purpose for a new body?:

This remains unclear though the preferred approach sound helpful, however detailed further consideration of the work of extant bodies is needed when shaping purpose and scope. Care must be taken with the new body in relation to its scrutiny role and how this works with the Single Environmental Body and existing bodies carrying that role and being recognised as having such status, which has been established over time.

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

Our comments above should be considered.

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

Not to our knowledge.

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

In principle yes.

Are there other functions which should be considered?:

Care and further detailed consideration must be taken around consultee and scrutiny functions on a statutory basis and the SEB remit and expectations around the

other bodies.

Do you have particular views on the independence of a new body?:

Independence, expertise and transparency are vital in its establishment, governance and functions. The direction of travel around this item is broadly scoped and there is much detail and important consideration of parallel initiatives, matters of governance, accountability and clarity of purpose to be worked through.

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

Absolute commitment to transparency and accountability vital.

Do you have any other related queries or comments?:

We would welcome further discussion as matters progress overall and will be pleased to contribute further to the process.

Response from:

Cathays & Central Youth & Community Project

Registered Charity Number 1122532
& company limited by guarantee - registered in Wales - Number 6141902

Registered Office:

Cathays Community Centre
36 Cathays Terrace
Cathays
Cardiff
CF24 4HX

Cathays Community Centre provides a base for community and youth facilities, social informal education and other non-profit activities.

Cathays & Central Youth & Community Project (CCYCP) is managed by a voluntary committee of elected members from the local area.

<http://cathays.org.uk/>

Cathays & Central Youth & Community Project was constituted as a charity in 1979 before recently becoming a company limited by guarantee. We endeavour to operate in a sustainable manner in our social, economic and environmental activity, and recognise sustainable development as a core principle of the Welsh Government.

Whilst welcoming the emphasis on community activity within the proposed legislation, including reference to volunteering, we feel that the particular contribution

made by community centres in Wales towards attaining the strategic goal of sustainable communities would be aided by explicit recognition within future Welsh Government work on Sustainable Development.

Cathays Community Centre would warmly welcome the opportunity to work with the Welsh Government in achieving these aims.



FOUNDATION FOR DEMOCRACY
AND SUSTAINABLE DEVELOPMENT

SD Bill Team
Welsh Government
Cathays Park
Cardiff CF10 3NQ

By email: sdbill@wales.gsi.gov.uk

18th July 2012

Dear Sirs

Sustainable Development Bill Consultation Response

A. Introduction

The Foundation for Democracy and Sustainable Development (FDSD, www.fdsd.org) is a London-based charity which works to find ways to equip democracy, understood as a political system, to deliver sustainable development. We have also been heavily involved in the establishment of the UK Alliance for Future Generations (www.allianceforfuturegenerations.org).

Political short-termism is among the emerging challenges that threaten progress on sustainable development. This is linked to lack of regard for the needs of future generations.

If it is to be adequately equipped to deliver sustainable development, the practice of democracy from the local to the global needs to take proper account of the long-term, and of the needs of future generations. We see in the Sustainable Development Bill a powerful opportunity to address this systemic short-coming in the practice of democracy, and warmly welcome the emphasis within the Programme for Government and the consultation document on the sustainable development bill on looking to the longer-term in decisions that are made now, and on the preparation of additional decision-making resources including *Understanding Wales' Future*.

In this response to the Sustainable Development Bill consultation paper, we address those proposals that offer potential to achieve this aim, in particular the proposal for the creation of an independent sustainable development body in conjunction with elaboration of a sustainable development duty on organisations delivering public services in Wales. We do not have a firm position on what is appropriate for Wales, and seek instead to offer reflections on the proposals that have been put forward.

B. Questions 1, 2 and 3: barriers to long-term decision-making and learning from the approach to sustainable development to date

We note the proposal that the sustainable development duty should apply to organisations delivering public services. However, it may be appropriate for the Welsh Government to invite the

Welsh Assembly to consider further how best to ensure, pursuant to section 121 of the Government of Wales Act 1998, that it too is equipped to promote sustainable development across the full range of its activities, including for example committee work and debates. In this regard, we note the possibility that, however strong specific 'sustainable development institutions', procedural rules may on occasion be used to thwart long-term thinking or decision-making in the interest of future generations.

Commitments to long-term thinking, or to sustainable development, are not inherently party political; yet if they are seen as too closely associated with a particular government, or a particular party, these core ideas are vulnerable upon changes in government.

One would expect that as organisations gain experience with implementing the sustainable development duty, one might see a range of innovative practices 'cascading up' into government policy. However, the risk is that the sustainable development duty is viewed as controversial or onerous, worse still a mere tick-box exercise, and consequently that it fails to become embedded in the way in which decisions are made, much less in the values of the nation, and consequently takes on the character of a one-term experiment of the current Government.

A commitment to long-termism demands reflection on how best to ensure that that commitment is itself durable; but both the process of reflection and the means of implementing its outcome must reflect the best qualities of democratic deliberation.

Inviting the Welsh Assembly to consider the extent to which the structures of its decision-making, procedures and deliberative processes support long-termism and sustainable development could logically be a natural adjunct to the adoption of the new sustainable development duty, thereby inviting a structural shift in the short-termism that can result from the pressure of successive election cycles. This can be particularly pronounced in the case of policy areas, such as climate change or natural resources management, that demand the adoption of coherent and consistent policies that span successive parliamentary (or Assembly) and government terms.

In the UK Westminster Parliament context we see evidence of a certain short-termism, for example, in the outcome of recent discussion in the House of Commons on proposals for reform of the House of Lords; with the prospects for further deliberation of this hundred-year-old reform agenda currently unclear as a result purely of the application of procedural rules, rather than substantive debate. We do not have sufficient understanding of Welsh Assembly procedures or the kinds of training or capacity-building opportunities available to its members to be able to offer more detailed insight at this stage. However, we consider that in addition to looking to these areas, the new sustainable development body could potentially usefully have a role in addressing Assembly procedures, and capacity-building or training in relation to sustainable development, in the round. We consider this further below.

C. Questions 4-8, 14, 15, 17, 20

Questions 4-8: we note, without resolving, that significant questions remain about the bodies to which the proposed duty should apply (with an indicative list at page 39 of the consultation document). **In principle, there are strong grounds for applying the sustainable development duty to the delivery of ‘public services’ such as supplies of water, sanitation and energy, as well as public infrastructure development, waste removal and treatment; whether such services are provided by private enterprises or public agencies.** There are some difficult balancing acts here, and we suggest that decisions on the application of regulations (emanating from the EU) on access to environmental information may provide useful guidance.

Questions 14-15: in relation to exploration of an approach based on identification of objectives that are at the heart of sustainable development, we consider that the idea of respecting environmental limits might be particularly challenging to translate to the individual organisational level without further detailed guidance – for example inviting or directing an organisation subject to the duty to consider whether a decision advances or undermines the development of capacity to adapt to climate change; or to consider the impact of a decision upon the nitrogen cycle or the availability of fresh water. We also invite the Welsh Government to consider whether it is the ‘interests’ or rather the ‘needs’ of future generations that should be recognised (since whilst it is possible to identify a general ‘interest’ of future generations in, for example, a healthy environment; it is far more difficult to identify the ‘interests’ of people who have not yet been born).

In relation to **question 17**; the ‘single sustainable development proposition’ seems too diffuse to offer meaningful guidance to organisations or to build effective capacity to implement the duty.

In relation to **question 20**, further guidance on implementation of the duty would be helpful, and could potentially be issued by the new sustainable development body. However, it might usefully incorporate scenarios and case studies alongside the more traditional narrative form of statutory guidance. **The overall aim should be to enable a cultural shift in the way in which decisions are made within organisations addressed by the duty.** Along the way decision-makers will likely face many strategic choices to which there is no blueprint answer. Clearly, it would be inappropriate for guidance to provide a blueprint that dictates, rather than guides, the outcome of choices in all cases. **The guidance needs to be enabling rather than disabling of the capacities for systemic thinking that are critically important to achieving sustainable development.**

At the same time, we consider that **the drafting of a duty on sustainable development needs to be linked to outputs and outcomes upon which organisations subject to the duty might be expected to report; in other words that legislation needs to set out the range of outcomes to which a sustainable development duty is to be directed.**

Question 27: there are strong arguments in favour of defining sustainable development. There is clearly value in seeking to do so through a formulation that maximises clarity and thereby minimises the likelihood of recourse to the courts to define unclear terms. **Terms such as ‘social justice’ are valuable, but need to be clearly explained, and need to be crafted in such a way that they are not**

vulnerable to repeated amendment or even repeal by successive governments with different complexions or narratives in relation to the social dimension of sustainable development. At the same time, ideas of equity and fairness are inherent in sustainable development. Here, there may be valuable insights from recent advocacy on the English National Planning Policy Framework, where many civil society groups called for a statutory definition of sustainable development and explored the scope of such a definition.

D. Questions 29-32: A new independent sustainable development body

We support the two overall roles for the proposed new body as set out on page 5 of the consultation paper; namely *“promoting a long term view, balancing the wellbeing of future generations alongside that of current generations”* and *“promoting an integrated view, balancing economic, social and environmental outcomes through the lens of sustainable development”*. However, we are not convinced that the present proposals would deliver a body that adequately meets these aspirations, as we explain further below. In particular, notwithstanding the ‘preferred approach’ set out in paragraphs 157-9 of the consultation paper, the emphasis seems to be upon the potential for the body to act as an adviser to organisations addressed by a new sustainable development duty or in defined (limited) circumstances as a statutory consultee, along with preparation of a periodic report on the wellbeing of present and future generations.

In relation to the latter function (preparation of a periodic report), much of the value of the report as an aid to decision-making within Government and the Assembly, as well as within organisations addressed by the sustainable development duty, would be dependent on its scope and structure, and the degree of aggregation in its content. We look forward to reading further proposals on this.

In relation to the proposed advisory role, the real-world challenges of promoting a long term view and of integration would be only partially met by a body focused on expert advice and guidance to organisations in Wales subject to the proposed new sustainable development duty and potentially some limited role as a statutory consultee. The decision-making processes of democracy in Wales would be only partially served by the body. And the body’s potential leadership role as a champion for the long-term view and future generations across sustainable sustainable development might be constrained if the idea of ‘leadership’ were not linked to a clear mandate to initiate analysis, advice and scrutiny, as well as a convening and consensus-building (or conciliation) role.

A sustainable development body with a mandate limited to expert advice and guidance might, rather, have the feel of a publicly funded sustainable development consultancy for organisations delivering public services. That would be very far from the aspirations set out on page 5 of the consultation document.

It is also important, if the new sustainable development body is itself to have a mandate to build capacity to deliver long-term thinking across the Welsh government, the Assembly, and organisations delivering public services (as we think it should), to reflect on how best to craft the body so as to ensure that it is resilient to changing political fashions in sustainable development.

We consider that the independent sustainable development body, whatever its form, needs to be linked to decision-making processes within the Welsh Assembly. This would help to lessen its association with the government of the day at the time of its creation or appointment, potentially thereby making it less vulnerable to repeal by later administrations. It is difficult without having sight of proposals for the form of such body to offer concrete proposals on how such a principle might be put into practice. However, to offer one example, in the event that the new body is headed by a 'Commissioner' or an 'Assembly Commissioner' for sustainable futures; we suggest that there is value in considering whether such a Commissioner might be elected by the Assembly, rather than appointed by the Government. Equally, linking the mandate and remit of the new body to the Assembly could effectively help to convey the message that the new institution is part of the fabric of democracy in Wales. That would mean rebalancing the proposed functions of the body, so that it also has a role in advising the Assembly in the exercise of its scrutiny and deliberative functions as well as organisations addressed by the overall set of sustainable development duties.

In relation to the mandate of the new body; we do not consider that, in an era of diminished access to justice and increasing interest in 'informal justice', the proposed body's remit need exclude some of the quasi-judicial and investigative functions associated with the ombudsman model (and exemplified in much of the *modus operandi* of Hungary's Parliamentary Commissioner for Future Generations). It might for example be appropriate to provide the body with power to receive representations from members of the public in relation to implementation of the sustainable development duty by any organisation subject to that duty, and require it to report on representations received and follow-up actions taken. Such a power need not be implemented in an adversarial way in relation to affected organisations, but could offer a valuable opportunity for learning and conciliation. We hope that there will be further opportunity for deliberation on this point.

In short, we do not consider that 'mutual trust and goodwill' are incompatible with the potential, as a matter of last resort, to exercise an arbitration role at the conclusion of a process based on fact-finding and conciliation. To the extent that existing mechanisms for resolving disputes about public sector behaviour are considered sufficient, we would expect to see some discussion of the extent to which such mechanisms are themselves equipped



with sustainable development or future generations capacity to enable them to play a full role in ensuring implementation of the sustainable development duty.

We also question whether the mandate of the new sustainable development body should be completely separate from the responsibilities of the Auditor General for Wales. **Without dedicated sustainable development capacity – of the kind that is likely to be found within the new body – the Auditor General may be less well equipped than the new sustainable development body to carry out sustainable development scrutiny functions;** particularly those that are best served by a dedicated capacity to apply a systems perspective across sectoral activities, or by substantial experience in considering the dilemmas and choices associated with delivering a long-term perspective. We would welcome further information on existing or proposed future development of sustainable development and ‘future generations’ capacity within the Auditor General for Wales.

One problem with scrutiny is that it tends to be *ex post* and backward looking; an opportunity to scrutinise government performance in relation to existing policy or procedural commitments. However, particularly if a statutory definition of sustainable development is adopted, as we hope it will be, **there is also a role for *anticipatory scrutiny* at the motion of scrutinising agencies; in other words an evaluation, anchored to Government policy and Assembly decisions; of possible future impacts arising out of current circumstances in the round.**

We do not think that there is a strong case to be made for splitting entirely the functions of the Auditor General and those of the independent sustainable development body. It might be countered that the periodic wellbeing report could fulfil this anticipatory scrutiny role. That *could* potentially be the case; but only if reporting for such a report is linked to functions of anticipatory scrutiny in relation to the work of the Auditor General for Wales, and to the work of the Welsh Government itself.

In relation to question 30, we do not see significant disadvantages to establishing the new body on a statutory basis. Indeed, this is an approach that would embed the body more firmly within the overall system of sustainable development governance in Wales.

In relation to question 31, we note that the proposal for a duty to produce a wellbeing report implicitly assumes a focus on *negative* trends, since it suggests consideration of how they might impact on long-term well-being ‘if unabated’ (as opposed to the more neutral ‘if no further policy measures or actions were implemented’, for example). **We do not consider that the function of the independent body in preparing a wellbeing report should be limited to negative trends in this way.**

We note with interest the proposal that the new body should have a power to make representations about matters affecting sustainable development or future generations. Such a power would usefully support functions that go beyond those set out in paragraphs 157-159, including in particular a power to make representations on policy matters under discussion in the Welsh Assembly and its committees or within the Welsh Government. This seems sensible. In addition, we suggest that it would be helpful to give the new body a power to participate as an independent voice for the long-term and the needs of future generations in delegations from Wales to relevant inter-regional or international negotiations, for example within the EU. The remaining proposed functions appear appropriate to the 'preferred approach' that is proposed within the consultation paper; though (in relation to question 32) others would be necessary if the broader approach that we have proposed were pursued.

E. British opinion on future generations: Ipsos-MORI poll, November 2011

As the Welsh Government further refines its proposals for a Sustainable Development Bill, it may wish to make use of insights from an Ipsos-MORI poll of 989 people over the age of 15 as part of an omnibus survey at the request of FDS and Intergenerational Foundation in November 2011.

The poll indicates that the British public is not as short-termist in its outlook as might commonly be supposed.

In particular, when prioritising future generations over different time-scales, almost two thirds believe the needs of "all future generations" are more important than the needs of any particular generation such as their own or their children's.

A majority of people place the needs of future generations of all people living on Earth above future generations of either their own family, or the people of their own country. Over a fifth of people place the needs of future generations of all "plants and animals living on Earth" first. More people choose "a healthy planet" as the most important legacy to hand on to future generations than any one of five other options including "an unspoilt countryside", "a thriving economy" and "safety and security".

Two thirds of people believe "the UK Government" does not adequately consider future generations in the decisions it makes today. Only 5% say the UK Government considers future generations too much.

A fuller summary of the findings is available online at <http://www.fdsd.org/wordpress/wp-content/uploads/british-public-opinion-on-future-generations.pdf>. Regional breakdowns of responses are also available from the raw data provided to us by Ipsos-MORI and we would naturally be happy to provide this to you should you consider it useful to consider responses from Wales in more detail.

F. Rio+20



Finally, we draw your attention to the Rio+20 outcome document, *The Future We Want*. In paragraph 86 of the final agreed text, UN Member States agree to launch a negotiation process to further define organisational and other aspects of a new high level forum on sustainable development, adding that:

“We will also consider the need for promoting intergenerational solidarity for the achievement of sustainable development, taking into account the needs of future generations, including by inviting the Secretary General to present a report on this issue”.

We urge you to ensure that the unique experiences of the Welsh Government during the Sustainable Development Bill process, and insights gained, are communicated to the office of the UN Secretary General in connection with the preparation of such a report. We understand that no formal announcement has yet been made on the terms of reference of, or *modus operandi* for, such a report process.

FDSD would be happy to provide further information to substantiate the points made in this written submission should it be requested. We look forward to reading the White Paper in the Autumn and, as appropriate, to providing more detailed comments at that stage.

Yours faithfully

Halina Ward
Director



UNDEB AMAETHWYR CYMRU FARMERS' UNION OF WALES

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Dyddiad/Date: 18th July 2012

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Dear Sir/Madam

PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL

Thank you for inviting the Union's views on the proposals for a Sustainable Development Bill.

Following an internal consultation with the Union's membership the following comments are submitted for your consideration.

During its internal consultation, some members expressed concern that parts of the document were difficult to read which led to confusion regarding the need for a Sustainable Development Bill and the aims of the Welsh Government in achieving its sustainable development objectives.

The Union supports the concept of a sustainable development Bill which would require public bodies to enshrine economic, social and environmental sustainability across all its functions and this is particularly pertinent in rural areas, to encourage the retention and development of businesses and services which, ultimately, results in vibrant rural communities and a thriving rural economy.

Farming by its very nature is responsible for the management of the landscape and the environment as well as the production of food for an ever increasing population. The Union believes that sustainable, locally produced food has an important role to play in meeting the Welsh Government's sustainable development outcomes and is disappointed that food and food security are only given minimal reference in the consultation. The inclusion of food security and the importance of public bodies procuring local food products within the Sustainable Development Bill will also work towards attaining the direction set out in the *Food for Wales Food from Wales Strategy* for a "sustainable and resilient food system that encompasses a food sector composed of competitive and profitable businesses" and a "Welsh food industry that can grow in a sustainable and profitable manner".

The FUW believes that the outcomes envisaged by the Welsh Government for sustainable development, particularly a sustainable economy and a sustainable society, will only be achieved in rural areas if there are associated improvements to service provision including alternative energy infrastructure, broadband availability, public transport, local education facilities, and local amenities.

Whilst supporting the aspirations set out in the proposed Sustainable Development Bill, the Union is concerned that, despite the policy objective outlined in paragraph 71, which states that “a statutory duty is to compel organisations delivering public services to act consistently with sustainable development as the central organising principle”. Unless there is a concerted effort by Welsh Government to ensure that the Bill is implemented uniformly across all public organisations, there will be little change in the delivery of the principles of a socially, economically and environmentally sustainable Wales.

Without prejudice to the preceding views, the Union's comments on the questions highlighted in the consultation are outlined below.

Question 1

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

The Union believes that one of the principle barriers to making joined-up decisions is the seemingly lack of communication between policy makers and those who implement policy on the ground. For example, the interpretation and implementation of Technical Advice Note (TAN) 6, 'Planning for Sustainable Rural Communities' is a classic example of a positive and welcome policy which would allow sustainable development which has been totally misinterpreted by some local planning authorities resulting in unnecessarily bureaucratic guidance which has stifled sustainable development in rural areas.

On a similar vein, Welsh Government has committed itself to a range of alternative energy targets as a means of contributing to climate change mitigation and has developed a target of 100,000 ha of new tree planting to sequester carbon.

Both policies are currently proving to be difficult to adopt on the ground, due;

- (i) to insensitive planning regulations and
- (ii) an assumption against planting trees on anything but the most productive farm land

Thus, policies created by one public body are unduly slowed down by other public bodies which is a significant barrier to the principle of 'joined up thinking'.

Question 2

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

In addition to taking the lead on ensuring that its aspirations, policies and guidance are interpreted effectively and uniformly by all organisations they apply to across Wales, the Union believes that Welsh Government needs to ensure that there are effective channels of communication between it and the other public sector organisations in Wales, to ensure that there is no undue duplication and bureaucracy of delivery on the ground.

Question 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?

As highlighted in the consultation, despite there being a lack of a joined up approach between public sector bodies, the Welsh Government and other public sector organisations already appear to be making some progress in adopting a sustainable development agenda.

Whilst acknowledging that a number of public and private bodies may have gathered evidence on their own sustainable development policies and objectives, the Union is unaware of further evidence.

Question 4

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

The FUW agrees that high level decisions would be the most appropriate level of organisational decision making at which the duty should be applied, as at this level an element of compulsion will not have an over-regulatory approach on those making service decisions which need an element of flexibility to reflect local needs.

Question 5

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

Whilst there will inevitably be some decisions captured which should not be subject to the duty, it is unlikely to have a major impact on the organisation and there should be sufficient flexibility to allow these to be excluded at a later date.

Question 6

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

This process will be evolving over a number of years and so the duty should be flexible enough to adapt as the public sector get used to the process. The Union does not believe that the legislation should be overly prescriptive or impact unduly on an organisations ability to deliver its objectives.

Question 7

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

The Union believes that the 'higher level' decision making could easily incorporate many internal operations through long term plans, annual plans and subject specific policies. Thus the Union believes that the system is sufficiently flexible to include the relevant internal operational decisions

Question 8

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

The Union agrees that budget proposals should be subject to the duty, within the auspices of UK and European legislation.

Question 9

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

Whilst the Union agrees with most of the behaviours outlined in the document, it does not believe that they are all 'critical' to reflecting sustainable development thinking. It is extremely important to ensure that an organisation is not stifled by having to reflect an arbitrary number of 'behaviours' merely because they are considered to be 'critical'. The blanket approach may not be the most cost effective or even practical approach to implement.

Question 10

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

No.

Question 11

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

The Union believes that designating behaviours has the advantage of being quicker to implement than the outcome based approach and does allow organisations the flexibility to adapt high level plans to reflect sustainable development principles realistically.

There is concern that to focus on a prescribed list of outcomes would be too inflexible for some organisations, which would eventually result in the legislation having to be amended down the line.

Question 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 Union believes that the extent that sustainable development should influence high level decisions should be in a way that is consistent with one, some or all of the behaviours. This statement allows for flexibility to reflect the nature of the decisions being made, whilst requiring due regard for the requirements of the legislation.

Question 13

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

As part of the objectives outlined under paragraph 92, the Union believes that bullet points 4 and 5, which refer to environmental limits and healthy functioning ecosystems, should be merged into a single objective.

The Union believes that, as sustainable, locally produced food has an important role to play in meeting sustainable development requirements, there needs to be an objective that refers to public procurement of locally produced food.

Question 14

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

The provision of a number of sustainable development objectives will theoretically encourage greater integration of sustainable development into high level plans and policies, although they may not all be relevant to every organisation.

There is also concern that a list of sustainable objectives can easily be incorporated into any plan, however it is how those objectives are going to be delivered that are of real importance to the taxpayer.

Question 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 FUW believes that as many of the objectives may not be relevant to all public sector bodies, the influence objectives have over high level decisions should be; 'If they do not detract from any of the objectives'.

Question 16

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

The FUW believes that the combination approach is likely to be far too restrictive for public bodies and will be a logistical nightmare to administer. Whilst supporting the need for sustainable development principles to be enshrined across the public sector, this must not place disproportionate costs or bureaucracy on public bodies as the process itself will inevitably become unsustainable in the long term.

Question 17

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

The FUW believes that there is a great deal of merit in this approach and whilst there may be a need to articulate further on the underlying principles which will be required and this can be developed through a suite of examples and or objectives.

This approach would require organisations to adopt sustainable development principles in high level plans, but also ensure that organisations are not mired in unnecessary and irrelevant undertakings.

Question 18

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

The Union believes that fixing a date by which all high level decisions must comply with the duty may not be practical especially as there is no date set for the implementation of the overarching Sustainable Development Bill.

Question 19

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

The Union supports this approach.

Question 20

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

The FUW has no formal views on this, although it believes that the new sustainable development body would be the best placed to deliver guidance.

Question 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?

In order to ensure that there is no duplication, there should be a presumption in favour of repealing any unnecessary legislation.

Question 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?

The Union is not aware of legal barriers to delivering in line with the sustainable development factors set out which the Sustainable Development Bill could remove.

Question 23

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

The Union agrees with this proposal.

Question 24

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

The FUW has no reason to believe any of the listed organisations should not be subject to the duty.

Question 25

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

The Union agrees with the list on the proviso that organisations can be added a later date if deemed appropriate.

Question 26

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

The FUW is aware of a number of ‘definitions’ of sustainable development and believes that trying to further define the phrase or indeed try to enshrine that into legislation will be extremely difficult and indeed could create conflict with other UK or European legislation who’s definition may differ from that proposed by Welsh Government.

The current definition in paragraph 127, does not mention sustainable economic development at all and so, if adopted in law would become divisive and inevitably result in environmental

sustainability becoming more important than the rural economy and people. It is thus fully rejected by the FUW.

Question 27

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

As outlined in 26 above.

Question 28

What should be the overall purpose for a new body?

The FUW believes that an appropriate approach to its purpose would be via the integration of the current functions of the Commissioner for Sustainable Development and “supporting and fostering the delivery of the economic, social and environmental wellbeing of current and future generations” as outlined in paragraph 136.

Question 29

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

The functions undertaken by the Sustainable Development Commission and the Commissioner for Sustainable Futures should continue, the FUW agrees with the favoured approach.

Question 30

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

As highlighted in the consultation the current arrangements for providing advice and guidance on Sustainable Development have been working successfully for a number of years.

The Union does however recognise that the introduction of a Sustainable Development Order requires the addition of a number of new functions which are not currently available under the existing arrangements.

Question 31

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

Yes.

Question 32

Are there other functions which should be considered?

Whilst the Union notes the proposed functions outlined in the consultation, it is concerned that reference has not been made to the existing functions of the Commissioner for Sustainable Futures and believes that these need to be included within the statute for the new body.

The FUW also believes that the first three points outlined in paragraph 166, as possible other functions to be considered, should also be included as part of the main functions of the body.

Question 33

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

The Union believes that, given earlier discussions regarding the role the sustainable development body will have in providing the Welsh Government and other public sector bodies with advice and guidance, the body should be completely independent of the Government.

Question 34

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

Given the role the body will have in ensuring that public sector organisations are held

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accountable for meeting sustainable development aspirations, the Union believes that the new body has to also be accountable for its own actions as well as being fully transparent in the way it operates.

In conclusion, the Union fully supports the concept of the sustainable development Bill, although, the improvement in the provision of services and quality of life in rural areas will be the acid test.

The Union is also concerned that the introduction of a sustainable development Bill should not lead to an additional level of bureaucracy and red tape that works against the aspirations outlined in the consultation.

I trust due regard will be given to the preceding comments.

Yours sincerely

RHIAN NOWELL-PHILLIPS (MS)

Deputy Director, Agricultural Policy

SD Bill Consultation Response

Chris Daw (cd@chrisdaw.co.uk)

Note: this response is opinion made in a personal capacity, although I work for an organisation connected with the SD Bill development process, which will be responding separately.

Contents:

1. Comment on Section 5 of the Consultation document
2. Responses to the individual consultation questions
3. Comment on Section 8 of the Consultation document

1. Comment on Section 5 – The overall case for change

The existing duty to sustainable development in the Government of Wales Act has been important, but I agree with the proposal that it is now time for a stronger duty that applies beyond the Welsh Government.

A strong, clear and enforceable duty to sustainable development is an essential part of making progress in Wales. I do not feel that the proposed duty is sufficiently strong, or has wide enough applicability. Legislation forms only part of the full suite of interventions needed to support organisations and individuals to be more sustainable. The consultation notes that there is an important role for guidance, the statutory body etc. I believe that the duty proposed in the consultation, based around behaviours and outcomes, is an example of what should be contained in guidance (possibly statutory guidance), not what should be contained in the Bill itself.

The proposed duty will apply to the devolved public sector in Wales, yet it is not clear from the consultation the extent of influence or jurisdiction of the devolved public sector, and how many important issues which impact on the sustainability journey fall outside of this sphere of influence or control. Whilst it is important to make progress with the devolved public sector in Wales, if a substantial number of important decisions or structures are outside of this, effective national progress will not be made.

The proposed duty makes no reference to the scale of the problem being addressed, priorities, targets or interim steps. A risk/reward based approach to compliance with the Bill would be my preferred option (although difficult to legislate for), in order to target intervention at the areas of greatest opportunity.

The function, form and ways of working of the sustainable development body should then follow this. Ways and means to measure and understand progress should be included in the Bill, together with mechanisms to strengthen the duty to deliver sustainable development to respond to measurements of progress.

2. Responses to consultation questions

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?

Primary evidence in response to these questions is best provided by delivery bodies.

A critical role for the new SD Body will be to maintain a clear picture of these barriers, and to be monitoring effective action taken to reduce and remove them.

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 substantial body of evidence was provided by States, and other organisations, to the Rio +20 summit. Analysis of the evidence provided contrasts many different approaches being taken to embedding sustainable development to varying degrees at national, regional and local level. This will enable some conclusions to be drawn on the effectiveness of Wales at embedding sustainable development versus other countries and sub-national administrations.

No clear, understandable picture of national progress exists in Wales at present. The Sustainable Development indicators, the Programme for Government actions and progress report, and other sources of data exist, but each have their limitations in terms of measuring sustainable progress of the country. This is a critical problem for the SD Bill to solve, discussed in detail in later questions. Without reference to this picture of progress, any assessment of the degree to which sustainable development is effectively embedded in operations and decision making cannot present a complete picture.

The Sustainable Development Commission was effective at comparing progress as it was able to make reference to work in the other devolved administrations in the UK. This structure cannot be easily replicated at a Wales level, but a role for the statutory SD body should be to engage and build alliances with the other devolved administrations in the UK and other sub-national and regional governments through for example the nrg4SD network.

The concept of a central organising principle has only existed in Welsh policy since 2009. Many of the data sources relied on to provide quantitative assessment of progress in the Consultation document are not sufficiently recent to draw conclusions from them about any changes that have been brought about to results or trends by the central organising principle, nor have the data been analysed to show that the adoption of the central organising principle is the dependent variable bringing about change (either positively or negatively). In my opinion, only the information from Effectiveness Reviews and SD Scheme Annual Reports can be used to draw any sort of conclusion in relation to this consultation question, neither of which are commissioned with the clear intention of answering this question. However many of the findings of this work, and other sources such as Wales Audit Office reviews, remain valid and current, and addressing them can only be described as in progress. I believe that this reinforces the arguments made in Section 5 about the need for a significantly stronger duty than exists now or is

proposed.

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.

From my understanding of the consultation document, the Welsh Government is seeking to change the full suite of behaviours and decisions of organisations to more sustainable ones, but paradoxically it would be unsustainable to subject every single decision or action to a rigorous sustainability assessment. The perceived fear of applying a duty to every single decision is that it would create an expensive burden, slow decision making, and increase risk adversity while stifling innovation.

I agree with the desire to create a duty that is inexpensive and efficient to demonstrate compliance with, and one that supports innovative practice. Innovation itself should be seen as a means by which to demonstrate compliance with the duty.

I disagree however that the duty should not apply to decisions at all levels, as I do not believe that this has the negative consequences set out in the consultation.

I think that in order to drive sufficient visibility of the duty within public bodies to secure its widespread adoption in spirit and to the letter, it needs to be legally applied to every decision and action taken by a public body.

To ensure that this is not burdensome, and could be applied in a simple and appropriate way, it should be satisfactory in law to show that a decision was taken in accordance with in-force policy for the organisation at the time it was taken. Such policy, be it a sustainability strategy, delivery plan, management process policy etc, should all also be compliant with the duty. This concept is very close to the outcomes proposed by paragraph 86 of the consultation document, but reached from the opposite perspective. I would counter the approach noted in paragraph 86 with the points below.

This structure of duty would then parallel the way many organisations deliver compliance with duties such as equalities, health and safety, etc. A full first-principles assessment of health and safety is not carried out when making stationery purchases for example, countering the argument put forward at consultation events about the level of the duty. Organisations are already experienced and capable of working in this way without compromising effective delivery of their core functions, and are able to use good governance to identify when a more detailed approach to securing compliance when developing a programme or project is necessary.

Without a provision that requires all decisions or actions to be compliant, the legal test on whether an individual set of circumstances should or should not have to demonstrate compliance would fall to case law rather than primary legislation, substantially complicating the legal position of the duty, and inviting an approach of identifying loop holes with the law rather than delivering its purpose. Without a duty across all decisions, it would also be difficult to have decisions made by organisations set aside even if their top level policy or strategy had been proven not to comply, leaving a lack of redress for those decisions being challenged.

A duty across all decisions, actions, and parts of an organisation also ensures that there is no perverse incentive created under the legislation to create policies, strategies and programmes which, for example, are short term so as not to trigger the duty. This would be entirely counter to the purpose of the legislation.

If sustainable development is the core function of all public service in Wales, then only a duty that applies at all levels would be sufficient to realise this concept. A duty that applies at different levels or in different ways to different decisions would not be sufficiently clear either to make sustainable

development robustly the core function, or worse risk it continuing to be seen as a competing priority rather than the means by which competing priorities are managed. It is important that as the white paper and draft Bill are developed reference is regularly made back to the findings of the Wales Audit Office 2010 report. Terminology such as 'burdens,' 'stifling innovation,' and 'unreasonable expectations,' show that even at the heart of developing this bill, the tension as to how sustainable development is actually employed is far from resolved. The Minister's stated intention with the proposed Bill is to embed sustainable development as the central organising principle of the whole public sector. Any duty this Bill creates must therefore apply to the whole public sector, and not in ways that portrays it as a competing priority.

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

As noted in response to Q4, all decisions should be subject to the duty.

Paragraph 87 notes some types of decisions in which necessary freedoms or objectivity could be interfered with by a duty. I believe that the organisations concerned should come within the scope of the duty, and all duties taken should comply with the duty.

If organisations are taking decisions that do not have sustainable development at their core, those organisations are not fulfilling their responsibility as a public body, and therefore I refute this approach. In law, there is likely to be one exception only to this principle that I would accept, and that is the National Assembly for Wales itself. The NAW would not be expected to pass a law that binds itself, as this is a recognised legislative practice.

To consider the arguments put forward, primarily in paragraph 87:

- Clinical judgements: a health care provider would be expected to set policies that comply with the duty, which would be expected to include operational and clinical policies. Whilst taking an approach that balances social, economic and environmental aspects for an individual clinical decision is nonsense, clinical decisions should be expected to comply with the principles of good governance and the responsible use of sound science. Additionally, concepts such as the precautionary principle of sustainable development are very relevant in this context, and so clinical judgements should not be excepted. Clinical judgements that have patient welfare at their heart are implicitly delivering wellbeing outcomes for service users, so form a direct part of realising sustainable development practice for the public bodies concerned.
- Academic freedoms: education institutions would be expected to comply with the duty in their normal operations, much as they do with other duties now. Academic freedom is not a defence to breaching duties under equality or health and safety law, and neither meaningfully impinges on academic freedom. The same would be expected from a sustainable development duty. Academic freedoms exist to ensure that research is not interfered with, and the duty should therefore apply in this context in the same way that for example research ethics duties apply. Strong provision of research from Welsh universities is an essential part of being a sustainable nation, reflected in the responsible use of sound science element of the 2005 UK Shared Framework, and therefore academic freedoms in themselves are part of delivering a sustainable development duty.
- Ombudsman, Commissioners, etc: these roles exist to support better public service delivery by upholding principles of good governance, challenging it where governance has not delivered for the service user. This is again a fundamental part of sustainable development, and these organisations are delivering the duty by undertaking what is defined as their core function.

Organisations that have remits to be independent or scrutinise in some way can very effectively contribute to the national achievement of a sustainable development duty, in the same way that they exercise their independent functions now. They will require a clear national narrative of what a sustainable Wales looks like, in order to be able to reach findings that support public bodies to make the transition towards sustainability. This will not change independent decisions reached, which will be based upon the merit of facts placed in front of them as it is now, but it will help these organisations to provide recommendations that both resolve case issues and help to implement sustainable development.

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?

By reference to Question 4 above, decisions not captured by the proposals are many of the most important ones, sitting below those proposed.

The duty under the draft Bill should be applied to all decisions of all public bodies.

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

By means of the approach set out in Question 4 above, internal operations would come within the definition of my preferred approach to the duty. I therefore support the approach that includes internal operations.

Organisations should not allow a focus on their internal operations prevent the achievement of the purpose of the Bill of moving to a sustainable development approach for the whole nation. It should be a role for the new statutory body to challenge those organisations that focus too much on their internal operations and do not provide sufficient attention to their services and outcomes.

The order of magnitude for improving the sustainability of Wales will for most organisations be much greater in their services and outcomes than their operations, and this provides additional weight to the argument to legislate on a risk/reward-based approach as far as practicable.

The statutory body should have an elective power to carry out reviews akin to the former Sustainable Development Commission's Sustainable Development in Government (SDiG) reports, where organisations are noted as having poor operational practices.

The example cited in paragraph 83 is compliance with European procurement law – I agree completely with the statement that the duty could not be used to circumvent tendering as part of a procurement exercise, as this would breach EU law. What the paragraph fails to address is what the key purpose of having a sustainable development duty is: a duty should not be a means to select between tenders, but go to the heart of critical issues such as whether organisations are actually procuring the right things, at the right times, and in the right ways. The Bill should make organisations identify answers to key challenges, such as are the goods or services being procured actually what citizens want, are they sufficiently focussed on the long term, are they preventative, etc. Procurement law is not in itself a barrier to delivering sustainability – what is procured, if not the right things, is a barrier!

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

Budgets should implicitly be captured by a comprehensive duty – budgeting should follow service delivery requirements, and those services should be provided to deliver sustainability. Budgets therefore do not need special treatment under the duty, but form an integral part of delivering it.

Having a strategy or policy to deliver sustainability objectives, but no resource to do so (or means to demand that resource), would be a perverse outcome of the legislation that would be counter to a sustainable development approach.

For sustainable development to be the central organising principle, and not a competing priority, budget setting should follow existing lines and approaches, not have separate elements identified for ‘Sustainable Development.’ If existing services or budget lines are not delivering sustainable outcomes, then it is the outcomes that need to be changed not the budgeting process.

In the same way that the Bill should be essentially cost neutral to organisations, as they shouldn’t be doing anything extra to their core functions, simply delivering their core functions through a sustainable development approach, so budget processes should not receive any particular focus in the Bill, simply be caught by the duty along with every other decision taken.

There is a valuable role for guidance, the statutory body and the Wales Audit Office here to help organisations show how sustainable development has been used to shape their budget in ways that are transparent, as this would help to secure compliance with the good governance aspect of sustainable development.

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 set out on p.33 are means of delivering sustainable development, at least in part, when making decisions or delivering services.

The consultation makes no distinction between the degree to which a balance needs to be found between these behaviours, if any may be favoured depending on circumstances, or the degree to which they must be exhibited in order to demonstrate compliance. For example, rationalising long-term decision making versus involving affected stakeholders is difficult, as with sufficiently long time horizons too many stakeholders would likely be affected to meaningfully engage with them all. In fact some may not even be born yet.

It would still be possible to follow a decision making process based upon these behaviours, and have a resultant outcome that is not the optimum one for sustainability.

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

A vital behaviour missing from the list is innovating and risk-taking.

The widely identified “mega-forces” or wicked problems facing humanity need new and novel solutions to overcome them. Taking risks around new innovations and techniques or approaches to solve problems should be considered to be a sustainable behaviour, provided it is done in ways that fit with the other behaviours.

Organisations subject to the duty should be encouraged to make sufficient ‘head-room’ in their progress on sustainability in order to be able to innovate without placing progress at significant risk. This requires strong, clear, consistent and nationally agreed measures and indicators of progress to enable these organisations to be able to make the good governance choices needed to know when, where and how to innovate.

My preferred approach to the legislation would be to have clear principles, limits or boundaries to the most important measures of progress and ways of acting, which should not be crossed under any circumstances. This approach would also require ‘behaviours’ under the model set out in the consultation. Examples of these include the Precautionary Principle which I believe should be enacted in the legislation, and concepts such as planetary boundaries, which in my opinion should be legally protected and it become an offence to take a decision which would cause them to be breached. More details of these are set out in parts 4 & 5 of this response.

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

As noted in previous answers, I believe that the duty should apply to all decisions, and therefore my comments below relate to all decisions not just high level ones.

The clear disadvantage to a behaviours based approach is that they do not legislate for a clear outcome, and it is virtually impossible to show whether they have been used to reach the most sustainable outcome possible, or simply to reach a partly sustainable outcome.

The behaviours as set out cover broad, generic ways of working that the public sector should be doing already. This legislation should be stronger than simply bringing all players up to the level that they should currently be at.

The behaviours as laid out in the consultation risk promoting weak sustainability outcomes, as they do not have any clear limits on resource use or environmental degradation – standalone I don't think that these behaviours are a good approach to legislation. If behaviours are taken by Welsh Government to be the preferred approach for legislation, I believe that they need to be much clearer, more prescriptive as to minimum levels of standards to trigger compliance, and to set out clear limits to ensure strong sustainability outcomes are achieved.

A possible disadvantage, which would need greater investigation to prove or disprove, is that behaviours could lead to organisations being too introspective about their approach to sustainability, in order to secure their own compliance with the legislation. As behaviours are focussed on the "I should..." model to demonstrate compliance, the role for other organisations/individuals could be seen as an additional compliance risk. I would expect this to lead to sub-optimal outcomes, with insufficient focus given to breaking out of silos or working across boundaries.

The advantage to behaviours as described in the consultation (albeit I believe that they are too limited) is that they are permissive rather than restrictive. This could create a more positive view of the legislation amongst those subject to the duty, reducing the risk of it being perceived as a burden or tick box exercise. This theme should be followed further where possible in the draft Bill, for example giving Welsh businesses 'permission' to have a green economy through the legislation could have a profound effect on long term sustainability outcomes.

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?

This question identifies my greatest concern with the behaviours approach – it is likely to be very difficult in practice either to clearly secure compliance, or to challenge bad practice, due to the difficulty of showing the reason, intent of outcome of actions and how they relate to these behaviours (for example, this parallels the *mens rea* concept of criminal law, and the difficulty of having to demonstrate this to secure conviction.) The behaviours alone are unlikely to secure good sustainable outcomes unless undertaken with the right intent, and legislating for intent is clearly impossible. A serious risk therefore remains around this approach.

Where the behaviours concept is permissive, a permissive approach to compliance would make sense – for example to support greater innovation. However a decision or action reached without taking a behaviour into account could not be described as sustainable, even if it reached the 'right' answer. This is most obvious with the stakeholder involvement behaviour – the right decision or action done 'to' citizens is less sustainable in my view than a poor decision or action done 'with' them.

For these behaviours to be meaningful as legal concepts, and tools for organisations to use to improve their governance and decision making, the behaviours need to be reflected in measures of national progress. If this approach is followed, it would in my view be necessary for all organisations subject to the duty to show how these behaviours were used and influenced decisions, to report these individually

(and jointly across boundaries where decisions and actions were taken in that way), to contribute to a national aggregate picture of how these behaviours are delivering sustainability in reality. I don't believe that they are measurable to a sufficiently precise or standardised way to make this reporting meaningful, and poor reporting risks entirely undermining the principle of legislation.

The objectives approach

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

Each of the sustainable development objectives listed in the consultation document has merit by itself, and with the others, to help shape a future development direction to Wales.

I have concerns with the wording behind several of the objectives, however note that prior to a white paper or draft Bill being published this is not a pressing consideration. For example social justice and equality should not be “promoted”, in my view they should be “achieved.” Anything less than achieving the outcome specified in law leaves ambiguity and an inability to enforce the purpose of the Bill.

My most pressing concern with the objectives is the framework within which they fit, and how they have been derived. Many equivalent models and frameworks have been developed which set objectives of this nature with a clear and rigorous evidence base behind them – for example the concepts of 9 planetary boundaries, the 10 One Planet Living principles, the 16 SD principles in the Quebec Sustainable Development Act, etc.

I believe that if an objectives approach is followed, it should follow more closely the “Principles” approach taken by Quebec, bringing important objectives such as the precautionary principle, internalisation of costs, and subsidiarity into the definition of sustainable development that they create.

I do not believe that an approach should be taken that seeks to subsume some within others. In fact I take the opposite view, that more objectives are beneficial where they can be clear, precise and measurable in respect of their achievement. Whilst this appears to create additional burden by having more objectives to comply with, I believe it actually reduces the compliance burden by being easier to see and demonstrate compliance with clear objectives.

I would also like to see the Welsh sustainable development objectives fitting more closely to international progress on sustainable development. Wales cannot secure a sustainable planetary future by itself, but must be part of international work. I believe the Welsh sustainable development objectives should have a clear relationship to the Sustainable Development Goals identified at the UNCSD Rio+20 summit, in the same way as our climate change targets are clearly linked to the UNFCCC COP agreements.

Wales also has an outward role to promote and support sustainable development outside our nation. I believe that important projects such as Wales for Africa are an important part of our sustainable development efforts, and there is therefore a need to outwardly promote sustainable development, at least at a national level, within the Bill.

It may be prudent to draft the Bill in such a way as to have some clear national level objectives, derived or linked to the Sustainable Development Goals, with separate levels of objectives beneath those for organisations operating below national scale (for example, the SDGs include reference to developing sustainable cities, which would not apply well to local authorities in predominantly rural areas of Wales).

I believe that the objectives as drafted for consultation are too broad or ill-defined to be meaningfully achievable, and I would urge clearer and measurable objectives to be defined. The Bill could propose fields in which clear objectives are required to be made, enabling precise objectives to be made by regulations to reflect changing national/international progress, or to allow Government to focus on priorities objectives that match its programme.

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

If the correct objectives are stated, it should be clear and simple to measure progress against them, identify actions and decisions taken which will not achieve them, and should be relatively easy to demonstrate compliance.

If the incorrect objectives are set, Wales risks delaying progress on achieving sustainability.

An objectives approach can be built more flexibly than behaviours, to allow for aggregation or granularity at geographic or sectoral level, to enable organisations to see their part of the bigger picture.

Objectives can be prioritised more meaningfully than behaviours, so that the Bill can work effectively with Government programmes.

The clearest risk an outcomes-alone approach takes is how decisions are reached. Provided that involvement and citizen participation is a clear objective this risk is reduced.

If objectives are selected as the preferred approach they should be designed so as to be translatable to all levels of the organisations that are implementing them, in order that can be usefully used to inform all projects.

Existing approaches used within Government for designing objectives should be used, such as SMART.

This would help to provide clarity and certainty of what is meant by an objective, removing the risk of objectives being clarified through case law (where decisions reached could easily differ from the original intention), as well as aid the process of translating objectives into the work and performance management of staff, driving good governance and accountability.

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?

Answers above note that there is no clear answer to this, and the further option of prioritised objectives also exists as a possible legislative approach.

The overall intention is to secure progress towards achieving sustainability at a national level.

Through clear and measurable objectives, it should be possible to measure aggregate progress against these objectives.

It would then be for organisations subject to the Bill to reach agreement with each other or agree a settlement with Welsh Government around the degree to which their actions will contribute to individual objectives.

It could be possible to allow some organisations to detract from some objectives, as long as other organisations are promoting them to a greater net degree, in order to be making national progress.

I do not hold that this approach is favourable, as it risks undermining the value and purpose of the Bill; I would prefer that a strong line is taken in the Bill which requires all organisations to achieve or contribute to the achievement of all of the objectives.

I believe greater opportunity for joint working, innovation, and achieving strong sustainability exists if all organisations are subject to the same level of duty, and no emphasis is given to a “trade-offs” approach in the Bill.

The combined approach

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

I share the view proposed in Paragraph 96 that a combined approach would be too complex.

I believe that the difference between behaviours and objectives, if well drafted and clear, is minimal, and would be better combined as a broad but comprehensive suite of principles.

The critical point irrespective of which approach is followed is that there must be certainty and clarity about what is sought from organisations. They must also be capable of translation into organisational objectives and the personal objectives of staff.

A single sustainable development proposition

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

I believe that a duty based on a single proposition alone would be too vague to achieve widespread compliance, let alone make substantial national progress on embedding sustainable development.

A valid approach could be to specify a single proposition, with a comprehensive set of underpinning principles based on the behaviours and objectives set out above. It could then be a defence in law to provide a from-first-principles explanation of how a decision or action delivers sustainable development whilst not complying to the letter of all of the objectives.

This approach would allow for flexibility around decisions or actions that are so innovative as to fall outside the framework envisaged by the legislation, but not create the perverse situation of having to justify while small procurement exercises for example contribute to national wellbeing from first principles.

The expectation under this approach is that most strategies, policies and decisions would be taken in compliance with the principles, however reference back to the single proposition could be used if that was more relevant. Such reference back should be made subject to significant consultation, transparency, good governance and involvement of stakeholders, as well as providing a clear role for expert knowledge and opinion on sustainable development.

If this approach was adopted, I would expect the legislation to set out a statutory role for organisations to report their intention to develop a policy or make a decision using the proposition rather than principles approach with the statutory SD body, and to have investigatory and scrutiny roles within the body to provide formal advice, and to oversee the whole process to ensure a sustainable approach is taken.

The time organisations may need to comply

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

I believe that this legislation should not be rushed, and organisations should not fear time pressure in order to achieve compliance. However the problems seeking to be solved, and the potential uncertainty created by a new approach, both raise the urgency of action.

Getting it right should be the aim of Welsh Government, not getting it done.

I would prefer a strong Bill to be developed with powers given to Ministers to bring sections of the Bill into force by Order, or to apply the Bill to organisations or classes of organisations by Order.

This could then be supplemented by a risk/reward based approach to bringing powers and duties into force with those organisations that offer the greatest potential, or easiest implementation path first.

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 role for supporting guidance, both statutory and non-statutory is enormous.

I would prefer to see a power to issue guidance given to the new sustainable development body rather than Welsh Government, in order to ensure that guidance is independent and can focus on achieving progress towards sustainability, rather than risk it being incorporated or subsumed into the large body of material issued to organisations by Welsh Government. I can see clear merits for either or both organisations having a power to issue guidance, and both organisations should be closely involved in developing any guidance. There is also a role for Wales Audit Office in developing guidance, to ensure that it reflects any advice that has been issued as part of sustainability auditing, and builds on lessons learnt.

Welsh Government should also be expected to issue information within the guidance or explanatory notes accompanying other new legislation, policies, strategies etc as to how they will implement the requirements of the Bill. This could be incorporated into the legislation as a duty, and should be carried out independently of the statutory SD body to ensure that it is able to exercise arms-length scrutiny where appropriate.

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?

I believe that no duties should be removed as a consequence of the Bill. If compliance with the Bill inherently secures compliance with other duties, then there is no need to repeal existing duties at this stage.

I would prefer to see an approach where compliance with “duplicate” duties is reported as part of the reporting under the Bill, and once an evidence base is formed from these reports then a separate process of identifying repeals is undertaken.

Reporting

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

Reporting of progress, compliance and barriers are all critical parts of the Bill forming a strong and useful duty that will enable Wales to embed sustainable development.

It would be preferable to see existing mechanisms used where possible and appropriate, provided that data is made available easily and transparently.

This approach does risk the “burying” of bad news on progress within scores of information in existing annual reports, so a clear framework of top-level information that needs to be reported should be developed, and form a prominent part of an annual report.

Some compliance should be championed at the time, both to recognise the efforts of organisations, and to encourage other organisations to follow suit. Organisations should be instructed, probably through guidance, that securing compliance is not only something for the annual report, but communicating it at the time is an important part of innovating and making progress.

Where performance needs to be challenged, this should happen in a timely way. Reporting non-compliance should therefore not be delayed until the next annual report either, by which time challenging it will likely be a waste of effort.

A statutory “Exception reporting” mechanism, where failure to comply is reported transparently and openly to the statutory SD body should form part of the legislation (for example along the lines of reporting arrangements that exist to the Financial Services Authority or the Charity Commission).

The statutory SD body should have a power to investigate, take evidence, and reach no-fault decisions and publish advice following these reports.

A more in-depth discussion on reporting is below in Section 5.

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.

Sustainable development should be the central organising principle of every organisation in every sector in Wales, in order to achieve system-wide progress.

Legislating for this in full falls outside the legislative competence of the National Assembly for Wales, but may come within its competence in future.

I believe that every organisation upon which the NAfW has competence to pass legislation should come within the duty, and the organisations subject to the duty should be defined such that as soon as an organisation is formed or comes within competence, the duty automatically applies to it.

This should be matched politically by a will on the part of Assembly Members to seek competence over fields where being able to make sustainable development the central organising principle of the organisations delivering in those fields would make a real difference to progress.

Public bodies outwith the competence of the NAfW, but operating in Wales, should be within the scope of the duty. However the NAfW will not be able to bring forward legislation to make this law, and so I believe it falls to the Welsh Government to request powers from the UK to bring these organisations within the duty.

Private and third sector bodies should also come within the scope of the duty to secure effective national progress, however I recognise that this would be an entirely different legislative purpose to that which the consultation sets out, and again falls outside of NAFW legislative competence at present. Without competence to pass law in these areas, there should be a strong role for the SD Charter, which should be developed to match the principles enacted in the legislation. The legislation should also contain a duty upon those it acts upon to promote adoption of the SD Charter as a key sustainable development principle, to at least help to drive voluntary compliance with the principles of the Bill.

I write first to welcome the Welsh SD Bill. Congratulations to the Welsh Government for taking seriously the SD agenda which the Government in 10 Downing Street has effectively given up on.

The SD body that the Bill creates is to be welcomed. However, the reason why the 'Sustainable Development Commission' that the Cameron Govt abolished was so easy to abolish is that it was just a powerless quango. The Welsh SD Bill must not make the same mistake. The SD body that is created must not only be on a statutory basis; *it must have teeth*. If not immediately, then in years to come. The placing of 'longer-term thinking' and of 'respect' or 'regard' for future generations at the heart of Welsh SD needs therefore eventually to be backed up by much stronger *powers* than are present in the Bill at present.

I have proposed (see

http://www.greenhousethinktank.org/files/greenhouse/home/Guardians_inside_final.pdf) that a 'super-jury' of 'guardians for future generations'

should 'future-proof' government (see

<http://www.guardian.co.uk/environment/damian-carrington-blog/2012/jan/04/climate-politics-future-generation-justice?> for one of

many examples of positive media coverage of the launch of this proposal earlier this year, at the Westminster Parliament, to an audience of MPs, Govt Ministers, journalists, etc.). This would be, most crucially, at the national level.

Any nation willing to *trial* this idea, by creating an *advisory* such body, a 'jury' to offer its view of laws, would have 'first-mover advantage' and would certainly attract favourable public/media attention.

I propose therefore that Wales *looks now at casting the SD body to be created under the bill as just such an advisory super-jury* to begin sitting asap.

In future years, the super-jury should be given actual powers to review or strike down laws, as under my proposal.

I appreciate that this is a radical proposal, and much stronger than the current SD body is envisaged as being. But the appropriate question to ask is this: If such powers are *not* given it, is there any realistic chance that the changes made in Wales from a BAU model in coming years will be *enough* to bring about genuine sustainability in Wales? One-planet living?

Dr. Rupert Read, Reader in Philosophy at UEA (Norwich), & Chair of the Green House thinktank.

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Please find below a response of behalf of PLANED (Pembrokeshire Local Action Network for Enterprise & Development). It has been prepared in discussion with staff and Board members. This said, due to the nature of this response, the exact content has not been endorsed by the Board and we would ask that all comments remain confidential until specific permission for their use, if appropriate, has been gained.

Responses have been made to the consultation questions as follows:

Q1/Q2

The principal barriers we face as an integrated organisation is the need to 'dis-integrate' in order to fit into other's long term planning and frameworks. The joined up approach is compromised when there is a requirement particularly from the public sector, but also other large funding organisations, to meet short term project aims and fit into a 'box'.

Q4

While the higher level is an appropriate level for the duty to be applied, unless its requirements are cascaded to all levels, it will be difficult to make the changes needed

Q9-17

While it is important to give decision makers etc information about behaviours / objectives and examples are useful, the way in which this is done needs to be in such a way that a 'tick box' type attitude is avoided i.e. there will be a tendency to reach the minimum requirement rather than looking for the opportunities to excel

Q19/20

Formal guidance is important, but it will carry a different expectation if issued by WG or the new SD body.

Q23

Think it is important that there is a requirement to report on compliance with the duty, and this could sit within existing reporting arrangements

Q24/25

While we think it is appropriate for Town & Community Councils to be part of the list and should be encouraged, the resource needed will have to be reviewed / redirected as will the capacity of the councillors. The other question is how this could apply, if in any way to public sector organisations for whom the responsibility is not devolved e.g. defence, policing, prison, port authority?

Q27

Any definition will become a bench mark when applied in a legal sense. With regard the definition quoted, while we support it and its aspiration, it seems unrealistic in the current situation – for example very few of us would be able to demonstrate that we are only ‘using our fair share of the earth’s resources’

Q28/29/33

The purpose of the body needs to focus on action, and not simply more words. While advice and guidance are important there are already sources of this and the body would be better to co-ordinate this in order that organisations understand what they could do better / how they might join up / take a more balanced approach in their development. In order to remain independent and credible, the power to challenge will need to be included in its remit (level will need to be defined).

Q30

We are not convinced by the argument presented to form a new statutory body and the functions – and how it will actually help deliver the SD agenda.

An additional, much more general comment that we wish to make, relates to a public perception that SD is about environment. The fact that the Minister presenting this consultation is the Minister for Environment & Sustainable Development reinforces this thinking. Far better had it been associated with another portfolio, to challenge the perception. The case studies that were presented alongside the consultation document seem to be trying to illustrate SD’s relevance to the breadth of well being and yet many would not make the connection between the two.

On behalf of PLANED

18th July 2012



Consultation on Proposals for a Sustainable Development Bill

Response to consultation questions:

The Welsh Government is to be congratulated on their approach to sustainable development.

Promoting sustainable development (section 3)

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

In principle the Trust is now well placed to behave sustainably as we have social, economic and environmental outcomes as our core objectives as represented by our charitable objects. Internally there are examples of increasing awareness of the need to balance economic, environmental and social outcomes, not least as demonstrated by the Conservation Management Strategy developed with a wide range of partners for the Montgomery Canal in 2005.

However, inevitably we do not yet operate in a sustainable context. For example:

- a) limits to funding and the unintended consequence of UK legislation (e.g. vacant building rates) can lead to prioritisation of short-term economic concerns over other longer term considerations;*
- b) the response of single-issue regulators who cannot consider wider aspects in their decision making (and may appear to administer regulations in a rigid and inflexible way) can cause decisions to be taken to the detriment of either social, economic or environmental factors; and*
- c) customers / users / consumers often lobby on single issues and from a single perspective.*

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

A system for allowing challenge and review of decisions provided this could not lead to vexatious challenge (realistically all public bodies are open to this already through some route);

A means of consider different issues on a single metric – i.e. economic costing of social and environmental impacts that are not otherwise protected in law needs a nationally agreed and applied method of measurement and comparison. Current models favour economic factors over social and environmental. The Single Body could be charged with developing the appropriate methodologies and metrics.

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 comment

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, this would be the level we would see environmental appraisal having to be applied to anyway.

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

Potentially but the duties and functions of the Single Body could include the ability to agree exclusions.

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?

Possibly but a right to challenge or call for scrutiny and the overview of the Single Body would allow for flexibility in implementation and for the Single Body to direct organisations to include new or exclude certain categories of decision ("case law" type approach).

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

The emphasis should be on outcomes rather than internal processes. However review / scrutiny would help an organisation identify where its internal processes are acting as an impediment to a sustainable approach.

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

Yes, because money is often the problem. Different allocations may be required to cope with short term costs (investment) with long term benefits (returns). We may have to do less but better or spend slower so that, for example, physical regeneration can be undertaken using a newly skilled local workforce.

The behaviours approach

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

No, the critical issue is changing the way decisions are taken and costs / benefits measured so that economic, social and environmental issues are all fully considered and on an equal and long term basis e.g. appropriately discounting economic, social

and environmental costs and benefits over the long term rather than a short term (in year) economic assessment.

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

See above.

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

While behaviours describe the way we should work – and may be auditable – it will be the models applied which will drive decisions e.g. private sector obligations towards (short term) shareholder value.

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?

Some decisions may require compromises offsetting gains in one area against losses in another – evidence could be sought that all areas had been considered but there may still be loss in, for example, cultural legacy. The concerns in paragraph 93 are understood and a robust system capable of withstanding legal challenge may best be served taking the approach in paragraph 95.

The objectives approach

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

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

Individual metrics could be agreed with the national body allowing simpler monitoring.

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 and if they do not detract from any other of the objectives;

The combined approach

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

Using both can combine flexibility with specific targets that can be developed over time.

A single sustainable development proposition

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

The combined approach is clearer and ensures Assembly decisions are required to make changes.

The time organisations may need to comply

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

Not less than 12 months, subject to the level of advice and support needed from the national body – sustainable development is actually a well understood concept, it has been around for a long time, so the only issue should be the specifics.

12 months should be sufficient time for an organisation to develop a system of compliance. What may create delays would be any requirement for measures or guidance from the national body – suggest that is an on-going review so it does not become an excuse for delay.

The provision of guidance

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

Yes but this should not be a reason for delaying implementation. The development of guidance and availability of “ambassadors” or sector peers who can offer advice will allow knowledge to grow organically over time as questions are raised and answered in specific circumstances.

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

Welsh Government, unless using the new body would not lead to delays.

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?

General environmental duties encompassed in the NERC Act, etc., should be reviewed and potentially repealed or altered to reflect the new duty and to avoid duplication.

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, but in line with the current UK review of the implementation of Habitats Directive and other EU Directives (Strategic Environmental Appraisal for instance) they need to be reviewed with the new Duty in mind to ensure that regulators can deliver on the spirit of the law taking into consideration economic and cultural considerations.

Reporting

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

Yes. Public bodies could either be subject to periodic review by the Single Body or the Commissioner or perhaps peer review through the GRI standard or Charter members.

Reporting sustainability through the existing Annual Report, rather than through a separate route, would help embed sustainability into a description of the way the organisation performs against its strategic objectives. Further it encourages a strategic focus to the Annual Report rather than on the incidental. Reporting sustainability across functions rather than as an add-on paragraph (or report) would help embed sustainable thinking at all levels.

GRI is now the primary reporting standard across the world and in all sectors. We doubt there is merit in attempting to duplicate the wisdom embodied in GRI; indeed Wales' and organisations' reputation would be enhanced by following the leading and credible standard. GRI offers the freedom for organisations to apply it as best fits rather than following a prescriptive template which may lead to odd results when used to compare different sectors.

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 comment.

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

It is presumed that significant public funding would, in due course, carry with it responsibilities to comply.

Defining sustainable development

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

Defining sustainable development allows an organisation's objectives and actions to be tested against that definition e.g. has that organisation's activities moved closer to the defined ideal?

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

The interpretation as set out in One Wales; One Planet and repeated in the Minister’s Forward is easier to understand although we appreciate it needs to stand up to legal scrutiny.

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 SD Body should be able to act as a robust and wise friend of, but be separate from, Government and other public bodies. Government may wish to make decisions influenced by political necessity but it should be provided with the evidence to enable it to understand and mitigate the implications of those decisions. Accordingly the body should be able to develop and offer evidence and advice and seek out and promulgate examples of best practice in the public, private and third sectors. It should be able to offer advice; express opinions based upon evidence and suggest standards or standardisation (and exclusions) where appropriate. It should also be able to monitor, review and report.

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 the body should also:

- a) Report on outcomes and progress to the Welsh Government*
- b) Constructively challenge the approach of duty-bound bodies and provide support and advice to generate improvements.*

A statutory body

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

Not that are immediately obvious.

Proposed functions for the new body

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

See above Q29

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

See above Q29

Independence and accountability

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

The body should be sufficiently independent of Government to allow it to confidently offer and be seen to be offering expert and credible advice to Government as suggested in the document.

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

No

Dear Sir/Madam

I am replying to the above consultation for Ofwat, the economic regulator for the water sector in England and Wales.

We note with interest the proposals for a sustainable development duty to be placed on organisations delivering public services in Wales.

As you may know, we already have a statutory duty to contribute to the achievement sustainable development across both England and Wales. We take this existing duty very seriously in exercising our functions in order to ensure that the water industry balances social, environmental and economic objectives. Given the complexities in extending any new duty to organisations like ours, we welcome the fact that we are not included in the proposed list of organisations to which the duty would apply at this stage.

We look forward to further discussions with you to understand any implications the Bill may have for us, now or in the future.

Yours faithfully

Noel Wheatley

Noel Wheatley
Director, Environment Policy
Ofwat

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*

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Prawf Cymru
Wales Probation



CYFYNGEDIG / RESTRICTED

Ein Nghyf / Our Ref: SP/ER/0712

Eich Cyf / Your Ref:

19 Gorffennaf 2012 / 19 July 2012

SD Bill Team
Welsh Government
Cathays Park
Cardiff
CF10 2NQ

Annwyl / Dear Sir/Madam,

RESPONSE TO WELSH GOVERNMENT CONSULTATION ON PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL

Wales Probation is committed to playing its full role in achieving the vision for Wales set out in the Welsh Government consultation on proposals for a Sustainable Development Bill. The recognition of the need for a long term approach and for the Welsh Government and public services to demonstrate leadership in this area is welcome.

While Wales Probation is currently a non devolved body, we are mindful of the implications that the new duty would place on our partners with whom we work. We have therefore carefully considered the consultation document and the issues raised.

We are supportive of the intent of the proposals, and the importance of creating a framework which ensures decisions are made that support the achievement of the vision. While we do not feel in a position to provide a detailed response to all of the questions, we would wish to make a number of more general observations.

The consultation document rightly reflects the reality facing all public sector bodies which currently have to work to short term financial and political cycles which often do not support the ability to take longer term decisions. To mitigate this, the importance of achieving alignment of policy objectives and associated targets and outcome measures, both centrally and locally determined, becomes ever more important. Creating this alignment across devolved and non devolved functions will also be important.

There are many examples of good progress where shared objectives and outcomes agreed between partners are leading to better strategic decision making. Facilitating integration across public sector bodies, with an outcomes based approach is, we believe, a powerful way to reduce some of the existing barriers.

Continued Overleaf...

YMDDIRIEDOLAETH PRAWF CYMRU WALES PROBATION TRUST

www.walesprobationtrust.gov.uk

There is currently a major review being undertaken by the Ministry of Justice into the future of probation services. We are anticipating the recommendations arising from the recent consultation to be published later this calendar year. I would therefore hope that as the development of thinking on the Sustainable Development Bill is progressed, Wales Probation will be clear on its future role and therefore able to fully contribute to the thinking and development of the approach.

Yr eiddoch yn gywir / Yours sincerely,




SARAH PAYNE

PRIF WEITHREDWR / CHIEF EXECUTIVE

Llangollen Town Council
Llangyniew Community Council
Llanfihangel-yng-Ngwynfa Community Council

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

Dear Sirs,

Consultation response to the proposals for a Sustainable Development Bill

The Councils recognise that the proposed legislation applies to the higher level decisions taken by organisations delivering public services to guide the way they work. In this context it is difficult to see how the new duty would impact at the lowest tier of Local Government in Wales, in respect of Town and Community Councils.

The Councils however, recognise their obligations in terms of sustainability and strongly support the Welsh Government's commitment to the promotion of economic, social and environmental well-being in Wales, with its emphasis on a long-term development pathway which has to be the future for many rural and urban communities in Wales.

The Councils also welcome the clear and meaningful definition of sustainable development, which takes into account environmental limits and the need for Wales to use only its fair share of the earth's resources. The definition must make it clear that Welsh policy has an impact beyond our borders, rather than the wellbeing of people in Wales being its sole aim.

The Councils in considering the proposals in the bill wish to highlight the following key messages for consideration:

In order for sustainable development to have a meaningful purpose and status in implementation, the Councils suggest that the definition and operational principles of the sustainable development from One Wales, One Planet should be reflected in the Sustainable Development Bill.

The consultation highlights relatively slow progress towards meeting sustainable development indicators. The Councils believe that this will continue to be a challenge in that implementing sustainable development on the ground will cross organisational

and administrative boundaries. Additionally individual contributions at a very local level will be difficult to identify within higher level targets and indicators.

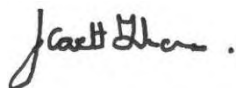
The Councils agree with the legislative approach proposed by the Welsh Government, and suggests that organisations delivering public services in Wales should be under an obligation both to continue to change behaviour and to produce key outputs from discharging the duty, such as long-term strategies or annual plans, as suggested in the consultation.

However, there must be some discretion in this; as it will place a considerable workload on small Town and Community Councils and they should not be obliged to publish the results annually in a common format, unless, considerable support is made available from principal authorities, or other agencies, to support this extra workload.

The Councils endorse the requirement to contribute to the achievement of sustainable development in relation development plans and the Wales Spatial Plan. Sustainable development must remain the key objective of the planning system.

The Councils also welcome the rationalisation of current arrangements through the creation of an independent sustainable development body and agree with its proposed functions.

Yours faithfully.

A handwritten signature in dark ink, appearing to read 'J Gareth Thomas'.

J Gareth Thomas.
Clerk



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YMATEB SUSTAINABLE GWYNEDD GYNALADWY CYF I

DOGFEN YMGYNGHORI AR GYFER Y

BIL DATBLYGU CYNALIADWY 2012

Mudiad wedi ei sefydlu tua 1998 i hybu cynaliadwyedd yw Gwynedd Gynladwy. Mae yn cael ei reoli gan 7 cyfarwyddwyr sy'n rhoi eu hamser yn wirfoddol. Rydym yn gweithio trwy Wynedd. Cofrestrwyd fel cwmni ar yr 12fed o Awst 2005. Erbyn hyn mae gennym dros 150 o aelodau. Rydym wedi bod yn llwyddianus ar weithio ar sawl prosiect, ac wedi derbyn grantiau i weithredu'r gwaith gan sawl mudiad, e.e. CAE, Cyngor Gwynedd, Gymdeithas y Pridd. Yn ddiweddar, mae un o'n cyfarwyddwyr wedi gweithio ar brosiect gyda dros 10 o bartneriaid o Ewrop a Caerdydd, yn edrych ar y ffyrdd gorau i insiwleiddio tai a waliau solid. Mae'r monitor yma yn dal i fynd ymlaen. Rydym hefyd newydd lansio Siarter Fwyd i Wynedd, trwy gydweithio a gyda unigolion, cynghorau, mudiadau amaethyddol, cynhyrchwyr a tyfwyr Gwynedd i annog, cryfhau, cyd-weithio a chymunedau i gynhyrchu bwyd yn gynaliadwy, cyflenwi bwyd iach. Rydym wedi cydweithio a Menter Mon (Annog) i sefydlu Farchnad Cynnyrch Lleol llwyddianus iawn ym Mhorthmadog.

Paratowyd yr ymateb yma gan wirfoddolwyr, heb unrhyw fewnbwn o arian gyhoeddus, nac eraill.

SYLWADAU CYFFREDINOL

1. Perthnasol yn bennaf i gyrff mawr (nid bach), ac ar gyfer gweithwyr a mudiadau yn y sector polisi yn hyterach na mudiadau bychan yn y sector cymunedol a/gwirfoddol.
2. Dylid son yn fwy clir am pa gyrff sydd yn y sector gyhoeddus, e.e. tai.

TUDALEN 3

Twf economaidd cynladwy – beth yw ystyr hyn – angen egluro’n fanylach

laith a diwylliant Cymraeg - angen cefnogaeth a cynhaliaeth

Tudalen 4

Croesawu llai o bwyslais ar dicio bocsus a mwy ar gyflawni dyletswyddau y cyrff – angen pwyslais lleol a hwyluso o’r brig

Tudalen 5

Corff Newydd. Beth fydd ei bwrpas? Dim yn gwrthwynebu sefydlu corf ‘newydd’, ond mae angen sicrhau ei fod yn cyrychioli pob rhan o Cymru, a phob sector, yn enwedig y sector cymunedol a gwirfoddol.

Angen bod mwy clir am sut mae’r corf yma yn perthnasu a phob sector, nid yn unig gyda’r sector gyhoeddus.

Tudalen 7

Pwrpas ymgynghori

Angen cyfeirio yn glir at gwasanaethau cyhoeddus, e.e. tai a trafnidiaeth a sut maent yn cael eu darparu, nid yn unig gan y sector gyhoeddus. Mwybyth yn y dyfodol

Tudalen 8 a 9

Rio de Janeiro

Cytuno ac a’r diffiniad, er bod angen edrych ar y gwahaniaeth rhwng twf economaidd a lles economaidd. Angen edrych yn fwy manwl ar “fairshare” yng Nghymru

Yn y sector ar cyrff datblygu economaidd, mae angen meddylfryd/syniadau newydd.

Tudalen 10

Angen newid y term ‘twf’ i ‘twf gwyrdd a chynladwy’, a’i fesur yn ol ei ol-troed ecolegol a carbon. Fel mae’r ddogfen yma yn disgrifio twf mewn ffordd hen ffasiwn, ni fydd modd cyflwyno datblygiad sydd yn caniatáu i economi Cymru fod yn gynaliadwy.

Defnydd adnoddau – anelu at ddefnydd zero gwastraff, ac ystyried gwastraff fel adnoddau dylid eu rheoli yn ddoethach a mwy effeithiol. Pwysicaf byth yw lleihau y mewnbynnau yn y lle cyntaf, yn enwedig mewn cwmnïau mawrion - mae hyn yn perthnasu at y fath o twf yn y lle cyntaf.

Tudalen 11

16. – Pwer go iawn i'r Cyngorau Cymuned.

Tudalen 24 – 25

Angen trafodaeth pellach ar National Level Indicators i wneud nhw'n fwy Cymreig ac yn weithredol yn rhanbarthol a lleol – gadael sut i wneud hyn i lefel mwy lleol, i.e. Cyngorau Sir. Mater o gael “engagement” yn well/fwy effeithiol yn hyn.

Tudalen 30

Penderfyniadau lefel uwch.

Ydi penderfyniadau ar y lefel yma yn arwain at ganlyniadau cynladwy ar lefel gweithredol / is yn y corff ?

Nid yw yr opsiynnau yma yn ddigon clir a pendant. Dylid defnyddio mesur pendant sef ol-troed ecolegol/carbon sydd yn cael eu adrodd yn flynyddol ar weithgaredd y corff o ran cynnydd yn y perfformiad datblygiad cynladwy.

Tudalen 32

WRTH GWRS dyle nhw gysylltu cyllido gyda perfformiad cynladwy.

Angen bod yn fwy eglur yma – beth yw tymor hir? Nid 5 mlynedd. Angen cynnwys term cenedlaethau .

Beth yw intigreiddio?

Angen cynnwys monitor amgylcheddol a cynlluniau i leihau defnyddion, pobl lleol, y diwilliant a iaith

Angen cynnwys holl egwyddorion sy'n y troed-nod.

Tudalen 33

95. Pam cynnwys hyn?

Tudalen 36

Angen cyfarfodydd ar amseroedd ac mewn mannau sy'n bosib i fwy o bobl fynd iddynt, e.e. ar ol oriau gwaith

Tudalen 37

Cw. 23. – Angen i’r adroddiad fod yn ddwy ffordd :-

- (i) I’r corff newydd
- (ii) I’r cyhoedd a aelodau o’r corff sy’n adrodd

Tudalen 38

Rhestr Sefydliadau

- (1) Angen edrych ar pob adran o’r sefydliadau, e.e. Visit Wales
- (2) Gwneud yn siwr fod y rhestr yma yn gyflawn, a’i gadw’n gyfredol, e.e. diweddaru pan mae’n newid enw
- (3) Dylai unrhyw gorff o sector arall sy’n derbyn cyllid sylweddol (£0.5 miliwn) gan un o’r cyrff yma adrodd yn ol hefyd ar eu ol-troed ecolegol – byddai hyn yn caniatáu integreiddio, e.e. Arriva, Yr Eisteddfod Genedlaethol
- (4) Mae angen cynnwys partneriaethau ac unrhyw bartneriaeth sy’n cynnwys un o’r cyrff sy’n cael eu rhestru.
- (5) Angen edrych ble a sut mae’r gwariant yn cael ei ddefnyddio gan bob corff ar y rhestr, e.e. os ydynt yn rhoi grant neu’n is-gontractio gwasanaethau o’r sector breifat a trydydd.

Diffinio “datblygu cynaliadwy”

Tudalen 40 – 127.

Rhaid cynnwys y ddau bwlet. Ar ol y bwlet pwynt cyntaf – gwneud o’n un frawddeg.

Tudalen 42.

Adran 7: Y Corff

Tudalen 43

Ein methodoleg

134.

Fforddiadwyedd – dim angen hwn

Tudalen 44

Swyddogaethau

Cytuno gyda’r ddau rol, ond fod o’r un corf, sef craffu a cynghori.

Tudalen 49

Annibyniaeth ac atebolrwydd

Annibynnol a dim o dan y cynulliad, efo pwer i orfodi cylchoedd

Cyffredinol

Yr adroddiad ar gael i'r cyhoedd weld.

Ysgogiad – cynnig gwobr ariannol i fudiadau sydd wedi ymdrechu a llwyddo fwyaf i leihau eu ol-troed

Beth fysa'r gosb, a pwy fu'n cosbi, os nad yw'r mudiadau yn cyrraedd y nod?

Dylid sicrhau fod gwaith y Comisiynydd yn eglur o ran atebolrwydd, e.e. gwrandio ac ymateb i grwpiau pobl ifanc/bregus

I ba gorff fydd y Comisiynydd yn adrodd yn ol ac yn atebol i.

Sustainable Gwynedd Gynladwy Cyf

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Ymateb Cyngor Gwynedd i gynigion Llywodraeth Cymru ar gyfer Bil Datblygu Cynaliadwy (WG15440)

Hybu datblygu cynaliadwy (adran 3)

C1. Beth yw'r rhwystrau mwyaf rydych yn eu hwynebu rhag gwneud mwy o benderfyniadau cydgysylltiedig tymor hir?

- Cyllidebau blynyddol a phwysau ar wneud arbedion yn y tymor byr.
- Cylchoedd gwleidyddol o 4 - 5 mlynedd yn gallu bod yn rhwystr gan fod tuedd i edrych ar y cyfnod hwn.
- Diffyg dealltwriaeth/ymwybyddiaeth o'r hyn y mae yn ei olygu. Yn aml iawn yn cael ei weld fel rhywbeth 'amgylcheddol' sy'n amherthnasol i nifer o feysydd gwasanaeth o fewn sefydliadau yn hytrach na rhywbeth a ddylai fod yn greiddiol. (Pwysig pwysleisio'r elfenau cymdeithasol ac economaidd yn ogystal a'r amgylcheddol).
- Sicrhau ymrwymiad gan uwch swyddogion ac aelodau etholedig - hyn mae'n debyg yn gysylltiedig â'r pwynt uchod.
- Blaenoriaethau a rheoliadau eraill yn gallu mynd yn groes i egwyddorion datblygu cynaliadwy e.e. rheoliadau caffael.

C2. Beth sydd angen ei wneud a chan bwy i leihau neu chwalu'r rhwystrau hyn?

- Angen codi ymwybyddiaeth a sicrhau dealltwriaeth gyffredin ymysg staff ar bob lefel o fewn sefydliadau cyhoeddus yng Nghymru. Gellid gwneud hyn trwy gynnal sesiynau hyfforddiant cyffredinol a hefyd sesiynau gyda swyddogion arbenigol gan ddefnyddio cyrff megis RTP1 a CIPFA er mwyn ei wneud yn berthnasol i feysydd gwaith.
- Hyfforddiant a chyfarwyddyd i aelodau etholedig ar sut y gallant neu y dylent ystyried datblygu cynaliadwy yn y broses o wneud penderfyniadau.
- Angen integreiddiad rheoliadau, polisiau a strategaethau er mwyn sicrhau eu bod i gyd yn cyfrannu tuag at y nod o ddatblygu cynaliadwy a ddim yn gweithredu fel rhwystr. Angen sicrhau fod trefniadau statudol megis Cynllunio yn cyfrannu tuag at y nod trwy sicrhau fod cydbwysedd rhwng ystyriaethau twf (economi a chartrefi i bobl leol), bywyd cymdeithasol a diwylliant bywiog, a gofal am ein hamgylchedd.
- Craffu effeithiol ac ystyrlon o benderfyniadau yng nghyd destun datblygu cynaliadwy ar bob lefel o sector gyhoeddus.

Tystiolaeth mewn perthynas â datblygu cynaliadwy (adran 4)

C3. Pa dystiolaeth arall sy'n bod sy'n dangos bod yr agenda datblygu cynaliadwy ar gynnydd a bod Datblygu Cynaliadwy'n cael ei fabwysiadu fel prif egwyddor drefniadol cyrff cyhoeddus?

- Mae cyfeiriad tuag at ddatblygu cynaliadwy mewn nifer o ddogfennau, strategaethau a pholisiau cyhoeddus erbyn hyn ond ychydig iawn o dystiolaeth sy'n bodoli ar lefel ymarferol ohono yn cael ei fabwysiadu fel prif egwyddor drefniadol.
- Llawer o sefydliadau cyhoeddus yng Nghymru yn rhoi sylw i'r agenda newid hinsawdd ac yn benodol lleihau carbon. Gellid dadlau, fodd bynnag fod y maes hwn wedi derbyn sylw o ganlyniad i'r cyfleoedd i wneud arbedion ariannol yn sgil lleihau carbon a deddfwriaeth (Ymrwymiad Lleihau Carbon) sydd wedi mynnu hynny.
- Mae'n bwysig nodi fod ffactorau datblygu cynaliadwy yn derbyn ystyriaeth fel rhan o'r broses o wneud penderfyniadau mewn nifer o feysydd eisoes er nad yw'n cael ei wneud yn enw datblygu cynaliadwy ac fel proses ffurfiol a gofnodir.

Dyletswydd datblygu cynaliadwy newydd (adran 6)

I ba benderfyniadau y mae'r ddyletswydd yn berthnasol

C4. Ydyn ni wedi nodi'r lefel fwyaf priodol o benderfyniadau sefydliadol ar gyfer cymhwyso'r ddyletswydd? Esboniwch.

- Mae'n bwysig sicrhau'r ymrwymiad ar y lefel uchaf yn y lle cyntaf ond bod y neges yn treiddio trwy'r holl sefydliad.
- Fel sydd wedi ei nodi eisoes yn yr ymateb hwn mae'r ddyletswydd hyn yn berthnasol i bob lefel o fewn sefydliad. Er mwyn sicrhau fod hyn yn digwydd mae'n hanfodol fod swyddogion yn gweld ei berthnasedd i'w meysydd gwaith hwy ac yn sylweddoli y gallai arwain at wella'r modd o weithredu. Gall hon fod yn broses dros amser y bydd angen arweiniad ar sut i'w chyflawni.

C5. A fyddai perygl yn hyn o gynnwys rhai penderfyniadau na ddylai fod yn berthnasol o dan y ddyletswydd? Beth fyddai'r rhain?

- Dim sylwad.

C6. A oes penderfyniadau sydd heb eu cynnwys a ddylai fod yn berthnasol o dan y ddyletswydd? Beth fyddai'r rhain?

- Amodau ariannu ar sefydliadau partner er mwyn sicrhau fod yr egwyddorion yn berthnasol i unrhyw gyrff sy'n derbyn arian.

C7. A ddylem ni gynnwys penderfyniadau sy'n rheoli gweithrediadau mewnol sefydliad? Os felly, pa weithrediadau mewnol y dylid eu cynnwys?

- Os yw'r Bil am fod yn llwyddiannus a chyflawni'r hyn y dylai mae angen iddo fod yn berthnasol ac i ddylanwadu prosesau penderfynu o fewn gwahanol feysydd gwasanaeth.

C8. A ddylai'r ddyletswydd fod yn berthnasol i gynigion cyllideb? Esboniwch.

- Dylid ystyried yr arian sydd ar gael i Awdurdodau Lleol wrth benderfynu ar ddatblygiadau perthnasol
- Gallai ariannu ychwanegol neu gosb ariannol fod yn ffactor ddylanwadol (neu ffon) gryf iawn, gan fyddai sefydliadau yn ymwybodol y gallai peidio cwrdd â'r gofynion fod ac oblygiadau cyllidol
- Efallai y gellid ystyried trefniant tebyg i'r cytundebau canlyniadau lle y cytunir ar gyfres o ddeilliannau penodol a dangosyddion o ran datblygu gynaliadwy a bod adnoddau yn cael eu rhyddhau ar gwrdd â'r deilliannau o fewn cyfnod penodol o amser? Sylweddoli bod oblygiadau o safbwynt herio'r uchelgais, mesur cynnydd, tystiolaethu ayyb.

Yr ymddygiadau

C9. A yw'r holl ymddygiadau rydyn ni'n eu nodi yn hanfodol i ymddwyn mewn ffyrdd sy'n adlewyrchu syniadau datblygu cynaliadwy? Esboniwch.

- Ydyn. Symudiad yn y cyfeiriad cywir o safbwynt nodi'r ymddygiadau disgwylidig ond sut ydym ni am newid diwylliant a'r ffordd draddodiadol o weithio er mwyn sicrhau fod hyn yn digwydd?
- Sut bydd modd mesur a monitro'r rhain a sicrhau fod yr ymddygiadau hyn yn digwydd ac yn gwneud gwahaniaeth ar lefel ymarferol weithredol?

C10. A oes ymddygiadau hanfodol nad ydyn ni wedi'u nodi? Esboniwch.

C11. Beth yw manteision ac anfanteision dynodi ymddygiadau fel y ffactorau datblygu cynaliadwy y mae'n rhaid iddyn nhw ddylanwadu ar benderfyniadau lefel uchel?

- Darparu cyfleoedd i sefydliadau ymateb yn unigol ac yn arloesol o fewn fframwaith.
- Caniatáu ymateb i faterion a blaenoriaethau ar lefel lleol.
- Yn agored i ddadansoddiad a dehongliad felly gall arwain at ganlyniadau amrywiol.
- Anodd mesur/cymharu sefydliadau yn erbyn ei gilydd - anghysondeb posibl mewn safonau.
- Bydd yn gofyn am newid diwylliant o safbwynt y ffordd yr eir o gwmpas pethau felly bydd angen cymorth ar sefydliadau i wneud y newid hwn yn ogystal ag elfen o her i'r hyn a fydd yn cael ei wneud er mwyn ymateb i'r ymddygiadau.

C12. Faint o ddylanwad ddylai ymddygiadau datblygu cynaliadwy ei gael ar benderfyniadau lefel uchel – er enghraifft, a ddylai'r penderfyniadau hynny fod yn gyfreithlon os ydyn nhw'n cael eu gwneud mewn ffordd sydd:

- yn cyd-fynd ag un o'r ymddygiadau, rhai ohonyn nhw neu bob un;
- yn adlewyrchu'r ymddygiadau'n fras;
- yn anghyson â'r ymddygiadau
- a oes opsiynau eraill?
- Anodd ei ateb gan fod yr ymddygiadau yn gymharol annelwig ei natur beth bynnag ac felly mae llawer o'r hyn a wneir mewn ymateb o ganlyniad yn debygol o fod i lawr i ddehongliad.
- Gellid cymryd ymagwedd debyg i'r un a gymerir hefo'r cytundebau canlyniadau lle cytunir yn y lle cyntaf ar gyfres o ddeilliannau a fydd yn cyfrannu tuag at yr ymddygiadau ac yna mesur cynnydd ac asesu os ydynt wedi eu cyrraedd ar ddiwedd y flwyddyn neu gyfnod penodol o amser.
- Byddai hyn yn caniatáu rhywfaint o hyblygrwydd lleol a sefydliadol ond byddai'n hanfodol i gael yr elfen o her i'r uchelgais.
- Yn anodd iawn iddynt fod yn gyfreithiol oherwydd eu natur annelwig sy'n golygu nad ydynt ddigon penodol. O ganlyniad mae'n debyg y byddai yn anodd iawn herio yn gyfreithiol na wneir cyfraniad tuag atynt.

Yr amcanion

C13. A oes amcanion datblygu cynaliadwy nad ydyn ni wedi'u nodi uchod?

- Diwylliant a'r iaith Gymraeg.
- Darpariaeth cartrefi ar gyfer pobl leol o fewn eu hardaloedd/cymunedau
- Bod trigolion yn derbyn gwasanaethau cyhoeddus safonol o fewn cyrraedd

C14. Beth yw manteision ac anfanteision dynodi amcanion cynaliadwy fel y ffactorau y mae'n rhaid iddyn nhw ddylanwadu ar benderfyniadau lefel uwch?

- Gellir perthnasu'r amcanion i ddarpariaeth gwasanaethau h.y. gall swyddogion berthnasu eu gweithrediadau gyda'r amcanion.
- Yn tueddu i fod yn rhy gyffredinol neu annelwig ei natur ac o ganlyniad gellir nodi fod gweithgareddau sydd eisoes yn cymryd lle (neu business as usual) yn cyfrannu tuag at yr amcanion.
- Yn gallu bod yn anodd i fesur cynnydd a monitro.
- Gallai fod yn broses o gydymffurfio neu dicio bocs yn hytrach na dangos gwir dystiolaeth o newid.
- Gellir eu dehongli yn wahanol gan wahanol unigolion/sefydliadau.

C15. Faint o ddylanwad ddylai'r amcanion ei gael ar benderfyniadau lefel uwch – er enghraifft, a ddylai'r penderfyniadau hynny fod yn gyfreithlon:

dim ond os ydyn nhw'n cyfrannu'n weithredol at un neu fwy o'r amcanion hynny;
os nad ydyn nhw'n amharu ar unrhyw un o'r amcanion;

hyd yn oed os ydyn nhw'n amharu ar rai o'r amcanion hynny, cyn belled â'u bod yn hybu eraill yn weithredol

a oes opsiynau eraill?

- Fel y nodir eisoes yr amcanion yn gyffredinol eu natur ac o ganlyniad mae'n debyg y byddai modd cyfiawnhau penderfyniadau heb fod wedi gwneud unrhyw newidiadau o ran yr ystyriaeth a roddir i egwyddorion datblygu cynaliadwy.

Cyfuno'r ddau

C16. Beth yw manteision ac anfanteision seilio dyletswydd ar ymddygiadau datblygu cynaliadwy ac amcanion datblygu cynaliadwy?

- Angen proses o wneud penderfyniadau o safon uchel sy'n dryloyw gyda sail tystiolaeth.
- Ymddygiadau yn caniatáu elfen o hyblygrwydd ac arloesi ond sefydliadau yn dechrau o wahanol lefelau felly byddai cynnwys amcanion yn ogystal yn rhoi mwy o strwythur i'w ddilyn o ran ymateb i'r ddyletswydd dros gyfnod o amser.

Y cynnig datblygu cynaliadwy sengl

C17. Beth yw'ch safbwyntiau ar seilio dyletswydd ar gynnig datblygu cynaliadwy sengl?

- Tebygol o fod yn gyffredinol iawn ei natur ac o ganlyniad yn anodd iawn i fesur cynnydd yn ei erbyn.

Yr amser y bydd ei angen ar sefydliadau i gydymffurfio â'r ddyletswydd

C18. Faint o amser y dylid ei roi i sefydliadau wneud y newidiadau hyn?

- Angen sicrhau amser digonol i wneud y trawsnewidiad o'r modd y gwneir penderfyniadau yn awr i ffordd newydd o weithio.
- Angen neilltuo adnoddau i wneud y trawsnewidiad o fewn sefydliadau cyhoeddus yn ogystal â'r corff DC h.y. cymorth ymarferol, elfen o 'hand holding' a chynghori ar y dulliau mwyaf effeithiol y gall sefydliadau fynd o gwmpas y dasg yn ogystal â herio uchelgais a dal i gyfrif.

Rhoi cyfarwyddyd

C19. A fyddai'n ddefnyddiol cyhoeddi canllawiau ffurfiol i sefydliadau y mae'r ddyletswydd newydd yn berthnasol iddyn nhw?

- Byddai. I'w gyhoeddi law yn llaw a'r Bil fel bod arweiniad yn bodoli o safbwynt sut y dylid ymateb i'r dyletswyddau o fewn y Bil.
- Byddai'n ddefnyddiol pe byddai'r canllawiau yn cynnwys arweiniad ar sut y dylai/gallai meysydd gwasanaeth penodol fynd i'r afael a'r agenda yn ogystal.

C20. A ddylai unrhyw gyfarwyddyd o'r fath gael ei gyhoeddi gan Lywodraeth Cymru neu'r corff datblygu cynaliadwy newydd?

- Y Llywodraeth a'r corff newydd ar y cyd? Y corff newydd i weithredu fel ffrind critigol i sefydliadau cyhoeddus er mwyn sicrhau gweithredu ar y canllawiau.
- Mae'n bwysig fod y cyfarwyddyd hwn yn ddogfen 'fyw' fydd yn cael ei diweddarau yn gyson gan ddefnyddio profiadau ac ymarfer da o sefydliadau.

Diddymu dyletswyddau

C21. A oes unrhyw ddyletswyddau statudol penodol y byddai'n briodol eu diddymu, yng ngoleuni'r dull gweithredu rydyn ni'n ei gynnig o dan y Bil Datblygu Cynaliadwy?

- Angen sicrhau nad yw'r hyn a gynigir am fod yn ddyletswydd ychwanegol neu'n dyblygu dyletswyddau sy'n bodoli eisoes.

- Angen adnabod pa ddyletswyddau sydd eisoes mewn bodolaeth sy'n cyfrannu tuag at ddatblygu cynaliadwy a'r dyletswyddau sy'n debygol o fod yn rhan o'r Bil ac adnabod a lle mae bylchau'n bodoli.

C22. A oes rhwystrau cyfreithiol rhag darparu'n unol â'r ffactorau datblygu cynaliadwy rydyn ni wedi'u hamlinellu y gallai'r Bil Datblygu Cynaliadwy gael gwared arnyn nhw?

- Rheoliadau/prosesau caffael Ewropeaidd weithiau yn gallu mynd yn groes i egwyddorion datblygu cynaliadwy.

Adroddiadau

C23. A ddylai fod yn ofynnol i sefydliadau gyflwyno adroddiad ar gydymffurfio â'r ddyletswydd drwy'r trefniadau adroddiad blynyddol presennol?

- Dylai. Pwysig fodd bynnag ei integreiddio i mewn i drefniadau adrodd presennol fel nad yw'n cael ei weld fel rhywbeth ychwanegol sy'n feichus ar y sefydliad.
- Angen sicrhau bod yna sail tystiolaeth i'r hyn a gynhwysir a'i bod yn fwy nag ymarferiad o dicio bocsys a chynnwys gwybodaeth enghreifftiol gryno (sicrhau nad yw yn rhywbeth y gellir ei gynhyrchu ar ddiwedd blwyddyn!)
- Mae angen elfen o her i'r adroddiad neu 'peer review' gan sefydliad arall er mwyn sicrhau ansawdd.

Y sefydliadau y gallai'r ddyletswydd fod yn berthnasol iddyn nhw

C24. A oes sefydliadau ar y rhestr hon na ddylai'r ddyletswydd fod yn berthnasol iddyn nhw? Esboniych.

- Na, er yn y lle cyntaf efallai y gellid edrych i ganolbwyntio ar y sefydliadau mwyaf a'r rhai mwyaf dylanwadol.

C25. A oes sefydliadau nad ydynt ar y rhestr hon y dylai'r ddyletswydd fod yn berthnasol iddyn nhw? Esboniych.

- Awdurdodau Heddlu - gweddill sefydliadau'r Bwrdd Gwasanaethau Lleol wedi eu cynnwys.
- Cymdeithasau Tai – cyfrifoldeb dros gyfran uchel o'r stoc tai yng Nghymru.

C26. A oes manteision neu anfantaision eraill ynghlwm â diffinio "datblygu cynaliadwy", ac os felly beth ydyn nhw?

- Cael diffiniad cydnabyddedig ar lefel Cymru o safbwynt yr hyn a olygir wrth gyfeirio tuag at "datblygu cynaliadwy".

C27. Pe byddem yn diffinio "datblygu cynaliadwy", ydych chi'n meddwl y byddai'r diffiniad gweithredol yn addas, a pham?

- Y diffiniad yn addas ar gyfer ei ddefnyddio ar lefel uchel ac yn darparu eglurhad cyffredinol a dealladwy o'r hyn a olygir.
- O ganlyniad i'w natur gymharol gyffredinol gall fod yn anodd sefydlu beth yn union a olyga i wahanol sefydliadau. Pwysig iawn fod y canllawiau yn cyfeirio at yr hyn y mae'r diffiniad yn ei olygu ar lefel ymarferol i sefydliadau a meysydd gwasanaeth.

Corff datblygu cynaliadwy annibynnol (adran 7)

Pwrpas y corff newydd

C28. Beth ddylai'r pwrpas cyffredinol fod ar gyfer corff newydd?

- Darparu arweiniad a chefnogaeth i sefydliadau o safbwynt gwneud datblygu cynaliadwy yn egwyddor ganolog.
- Pwysig bod presenoldeb ar draws Cymru er mwyn darparu cymorth ymarferol ar draws y wlad.
- Gweithredu fel ffrind critigol gan herio cyrhaeddiad ac uchelgais sefydliadau.

Sut dylai'r corff newydd weithredu

C29. Oes gennych chi farn ar sut dylai prif swyddogaethau'r corff newydd weithredu?

- Cytuno gyda'r prif swyddogaethau ond a fydd y corff ag adnoddau digonol i gyflawni'r dyletswyddau hyn yn effeithiol ar draws y wlad ac o fewn gwahanol sefydliadau?

Corff statudol

C30. Ydych chi'n credu y dylai unrhyw gorff gael ei sefydlu'n statudol?

- O'i sefydlu'n statudol byddai'n rhoi sicrwydd a pharhad gan sicrhau nad yw sefyllfa megis dod a'r Comisiwn Datblygu Cynaliadwy i ben yn dilyn newid gweinyddiaeth o fewn Llywodraeth y DU yn gallu digwydd.

Swyddogaethau arfaethedig y corff newydd

C31. Ydych chi'n cytuno â'r swyddogaethau arfaethedig i sefydlu corff newydd yn statudol?

- Ydym.

C32. A oes swyddogaethau eraill y dylid eu hystyried?

- Cynorthwyo sefydliadau o fewn y sector gyhoeddus i roi camau yn eu lle i wneud datblygu cynaliadwy yn egwyddor ganolog.

Annibyniaeth ac atebolrwydd

C33. Oes gennych chi farn benodol ar annibyniaeth y corff newydd?

- Angen bod yn annibynnol o'r Llywodraeth gan y bydd yn herio cynnydd y Llywodraeth ynghyd a sefydliadau cyhoeddus eraill.

C34. Oes gennych chi farn benodol am y trefniadau atebolrwydd ar gyfer y corff newydd?

- Angen sicrhau atebolrwydd er mwyn sicrhau bod y corff yn effeithiol ac yn gwireddu ei ddyletswyddau yn llwyddiannus. Gellid sefydlu Bwrdd gyda chynrychiolaeth o wahanol sectorau a meysydd er mwyn goruchwyllo gwaith y corff.
- Mae'n bwysig fod swyddogion o fewn y corff o gefndiroedd economaidd a chymdeithasol yn ogystal â amgylcheddol er mwyn cael cydbwysedd rhwng y gwahanol elfennau o ddatblygu cynaliadwy.

Pa fath o Gymru? Gwyrddni a'r Prosiect Cenedlaethol

Yn thema i heddiw yw bod dyletswydd y Cynulliad Cenedlaethol i hyrwyddo Datblygu Cynladwy ac ymrwymiad Llywodraeth Cymru i wneud hynny yn Egwyddor Drefnu Ganolog i bob polisi yn arwain at ddilema bwysig a bod angen wynebu a datrys y ddilema yma os ydyn ni'n mynd i symud ymlaen fel cenedl.

Rwy am ddechrau gyda'r economi. Does dim amheuaeth nad yw economi Cymru, am ba resymau bynnag, yn tangyflawni'n ddifrifol

Mae Gerry Holtham, sy'n gwybod mwy am hyn na neb arall, yn dangos bod diffyg sector-cyhoeddus Cymru, sef y gwahaniaeth rhwng gwario cyhoeddus a'r hyn sy'n cael ei godi drwy drethi, yn £12bn, sef cwarter Crynswth y Gwerth Ychwanegol (*Gross value added GVA*) Cymru. Does dim rhyfedd hynny gan mai rhyw 75% o GVA cyfartalog y DG yw'r eiddo Cymru, ac mae'r 'bwllch ffyniant' ar hyn o bryd yn agor yn hytrach na chau.

Cymharwch hyn gyda'r Alban lle nad yw'r diffyg yn ddim gwaeth nag eiddo'r Deyrnas Gyfunol yn gyfan. Y rhesymau am y gwahaniaeth meddai GH yw

Nad oes gyda ni ddim maes olew

na sector gwasanaethau ariannol ac

Nad yw'n heconomi ni at ei gilydd mewn cyflwr iachus o safbwynt cystadleuol.

Un o effeithiau hyn yw bod y drafodaeth gyfansoddiadol ynghylch dyfodol Prydain ar hyn o bryd yn hollol wahanol yn yr Alban ag yw hi yng Nghymru. Mae'n realistig i'r Alban ystyried annibyniaeth wleidyddol, pun a ydych chi'n barnu hynny'n beth i'w ddymuno neu beidio. Mae'r opsiwn nesaf, sef ymreolaeth ariannol neu ffiscal (*'Devo-max'*) hefyd yn gredadwy ac yn bosibilrwydd real.

I Gymru mae naill ai annibyniaeth neu *devo-max* yn gyfangwbl allan o'r cwestiwn a bydd yr opsiwn nesaf wedyn, rhyw fath o ddatganoli neu *ddevo-plus*, fyddai'n rhoi cyfrifoldebau trethiannol sylweddol i'r Cynulliad, yn dipyn o sialens. Gyda hwnnw byddai Chymru'n para i ddibynnu'n drwm ar droglwyddiadau ariannol o Drysorlys San Steffan.

Fe gewch chi drafodaeth awdurdodol ar hyn oll yn nhystiolaeth Prosiect Undeb sy'n Newid (Cymru Yfory, Sefydliad Materion Cymreig, Canolfan Llywodraethiant Cymru Prifysgol Caerdydd) i Gomisiwn Silk, sy ar hyn o bryd yn ystyried dyfodol llywodraeth ddatganoledig yng Nghymru.

I genedlaetholwyr/gwladgarwyr Cymreig o bob math, does bosibl nad yw'r realiti yma'n beth hynod o anghysurus. Beth bynnag fo'n syniadau ni am ddyfodol cyfansoddiadol Cymru a'r Deyrnas Gyfunol, mae-hi bownd o fod yn destun diflastod bod gwendid ein heconomi-ni'n gosod ffiniau ar ein dyheadau cenedlaethol-ni.

Mae yna effeithiau eraill yn ogystal i dangyflawni economaidd: diwethdra ac anweithgarwch economaidd, pob math o broblemau iechyd a chymdeithasol a thangyflawni addysgol yn eu mysg; o bosibl, i gymryd enghraifft nid dibwys, broblemau ariannol difrifol y timau rygbi rhanbarthol, ac yn y blaen. A mor ddifrifol a dim, y gwaedlif parhaus ar ein talentau gorau drwy allfudiad, sy'n nychu ein hoen-a'n-hyder cymdeithasol a diwylliannol, a'r iaith Gymraeg yn benodol.

Does bosibl nad yw mynd i'r afael a hyn oll yn greiddiol i'r prosiect cenedlaethol. Dyma fi'n troi nawr at Ddatblygu Cynaliadwy, y mae'i hyrwyddo-fe, fel rydyn ni i gyd wedi clywed hyd at syrffed, yn rhwymedigaeth statudol ar y Cynulliad Cenedlaethol drwy Ddeddfau Llywodraeth Cymru 1998 a 2006. Mi chwaraeais i ryw ran yn y broses o gynnwys y rhwymedigaeth yna yn Neddf 1998, ac ymfalchio yn hynny, ond yr hyn rwyf-i am ddweud nawr yw hyn:

O safbwynt egwyddor gyfansoddiadol mae'n hollol annerbyniol bod deddfwriaeth gan San Steffan yn gosod rhwymedigaeth o'r fath (ac mae yna eraill) ar y Cynulliad Cenedlaethol ac rwy'n edrych ymlaen at ddileu rhwymedigaethau felly mewn Deddf Llywodraeth Cymru newydd cyn gynted a phosibl.

Ond rhwymedigaeth neu beidio, mi allwn serch hynny ymfalchio yn y ffaith fod Cymru yn cael ei gweld fel rhyw fath o esiampl yn y maes allweddol yma. Onid oedd hi'n braf i ddarllen bod Jonathon Porritt, neb llai, yn annog gwleidyddion San Steffan i edrych i gyfeiriad Cymru oherwydd ein polisiau gwyrdd. Mae Elin Royles wedi dangos sut y mae Cymru wedi ennill peth bri ym mhroses y Cenhedloedd Unedig drwy arwain Rhwydwaith y Rhanbarthau dros Ddatblygu Cynaliadwy.

Nawr, fel mae'n digwydd mae hyn oll yn gwestiwn amserol iawn, gan fod Llywodraeth Cymru am gyflwyno Deddf Datblygu Cynaliadwy er mwyn grymuso'r agwedd yma: ymgynghori'n digwydd ar hyn o bryd, Papur Gwyn Hydref eleni a Mesur yn dod o flaen y Cynulliad yn Hydref 2013.

Mi soniais wrth agor am y ddilema, y tensiwn, y gall yr ymrwymiad i Ddatblygu Cynaliadwy ei olygu i'r genedl. Ac i agor y maes yma a gaf i gyflwyno i chi ddau fersiwn o Gymru, dau syniad am ddestini Cymru, dwy weledigaeth genedlaethol os liciwch-chi, gan ddechrau gydag englyn eiconig-feistrolgar Taliesin o Eifion [Thomas Jones 1820-76]

'Cymru lan, Cymru lonydd – Cymru wen
Cymru annwyl beunydd
Cymru deg, cymer y dydd,
Gwlad y gan, gwel dy gynnydd.'

Mae'r ddau fersiwn o Gymru yna: Yn y paladr y darlun sentimental, cysurus: Cymru *lan, lonydd, annwyl*; ac yn yr esgyll, heb unrhyw arwydd allanol o eironi y darlun amgen: y Gymru sy'n cipio'I chyfle (*cymer y dydd*) ac sy'n cofleidio *cynnydd* – un o allweddeiriau oes Victoria a'r chwyldro diwydiannol.

Mi gewch ddadansoddiad o'r ffordd y dyfeisiwyd fersiwn (1), y syniad o Gymru fel tirwedd brydferth, ddilychwin, gwlad wych i ymwelwyr fforio ynddi a darganfod ei harddwch rhamantaidd, garw, cyntefig yng nghyfrol feistraidd Peter Lord *Delweddu'r Genedl*. Y fersiwn yma o Gymru, a *North Wales* yn enwedig, barodd i lywodraeth Prydain ddynodi 20% o ddaear Cymru yn barciau cenedlaethol (sylwch ar yr ansoddair a chofiwch nad Cymru yw'r genedl dan sylw) a 10% pellach yn Ardaloedd o Harddwch Neilltuol – dyna i chi 30% o ddaear Cymru lle mae cyfyngiadau sylweddol ar ddatblygiad, gan gynnwys ynni adnewyddol, yn enw gwarchod tirwedd amhrisiadwy Cymru lan.

Fe gewch fersiwn (2) yn realiti bywyd mwyafrif mawr pobl Cymru yn ystod y 19fed ganrif, sef eu troi-nhw'n boblogaeth ddiwydiannol yn un o wledydd mwyaf blaengar ac anturus y byd. Ac esgor, drwy'r trawsnewidiad arswydus yna, ar radicaliaeth wleidyddol a chrefyddol, bwrlwm a chreadigedd cymdeithasol a diwylliannol, cadw cyfran uchel o'n poblogaeth ymfudol o fewn ffiniau Cymru, yn wahanol i Iwerddon, a rhoi egni mawr newydd yn yr iaith Gymraeg. Cynnyrch y trawsnewidiad yna wrth gwrs oedd 'gwlad y gan' englyn Taliesin o Eifion. C

Cost enfawr i hyn oll mae'n wir o ran dioddefaint dyn (ond ddim agos gynddrwg ag yn Iwerddon wledig) a'r amgylchedd naturiol wrth gwrs: enghraifft berffaith, gallech chi ddweud, o ddatblygu anghynaliadwy. Ac yn ogystal a rhoi hoen newydd yr iaith, hau hadau ei dirywiad. Ond mewn difrif, ble fuasai Cymru heddiw oni bai am y crochan chwyldroadol rhyfeddol yna? O ran hynny, ble fuasai'r Eisteddfod Genedlaethol hebddo-fe?

Rwy'n hoff iawn o gerdded y wlad – ddim hanner digon ysywaeth – er mwyn dod i nabod 'Cymru'n well, o flaenau cymoedd y De i Ben Llyn, o arfordir Sir Benfro i Glawdd Offa. Mae'r golygfeydd yn hyfryd, ond yr hyn sy'n y nghyfareddu i yn ddi-ffael, yn rhoi ystyr i'r dirwedd wledol, yw'r gynhysgaeth ddynol, cymdeithasol a diwylliannol a draddodwyd i ni gan genedlaethau'r gorffennol. I fi, dyna'r dreftadaeth amhrisiadwy. A chymaint o'r dreftadaeth honno sy i'w briodoli i ddatblygiad diwydiant. Onid yw-hi'n drawiadol, ac yn wych, mai tref ddiwydiannol, Blaenafon, a enillodd safle Treftadaeth Fyd UNESCO.

Pwy ddiwrnod roeddwn i'n sefyll ar Fanc y Darren yng ngogledd Ceredigion, uwchlaw Trefeurig, Cwmerfin, Cwmsymlog a Phenrhynoch. Golygfa ryfeddol, a'r tir o dan y nhraed yn waring o weithfeydd mwyn, yn blwm ac arian a chopr, a'r pentrefi o'n amgylch-i yn aneddiadau diwydiannol lawn cymaint a Blaenafon a Merthyr Tydfil a Glyn-nedd a Thredegar neu Lanberis neu Rosllanrchrugog, rhai o bwerdai'r deffroad diwylliannol, cymdeithasol a chenedlaethol sy'n gyfrifol am y ffaith fod Cymru'n genedl, ac yn genedl wleidyddol heddiw. Fe ddewch ar draws yr un stori ym mwyngloddiau manganis Pen Llyn, yng ngwaith aur Dolau Cothi, yn ffatrioedd gwlan a chwareydd llechi Dyffryn Teifi, ac yn y blaen ac yn y blaen, yn ddiderfyn bron. Ac fe ges i magu mewn tref ol-ddiwydiannol o'r enw Aberaeron ar lan Bae Ceredigion.

O ben Banc y Darren hefyd roeddwn i'n gallu gweld ffernydd gwynt, rhai yn agos eraill ymhell, yn bywiocau'r olygfa: Mynydd Gorddu, Bwlch Nant yr Arian, Cefn

Croes, Llangwryfon ac ymhellach ffwrdd Llandinam. Mae adeiladu a chynnal-a-chadw'r ffermydd gwynt yma wedi creu swyddi ac yn pwmpio ugeiniau o filoedd o bunnau'r flwyddyn i'r ardaloedd cylchynnol. Ond yn nannedd gwrthwynebiad ffyrnig lleiafrif o bobl ymroddedig y cafwyd y datblygiadau hyn. Gwrthwynebiad sy'n tarddu I raddau helaeth iawn o Fersiwn (1), fersiwn Cymru lan, Cymru lonydd, y ddelwedd o Gymru fel tirwedd amhrisiadwy ddilychwin y mae rhaid ei gwarchod rhag datblygiad a newid radical.

Rwy'n cofio am wr ifanc hoffus, cwbl ddiffuant, Sais yn wreiddiol a oedd wedi dysgu Cymraeg yn rhagorol iawn, yn dod ataf i i ymbil arnaf-i wrthwynebu cynllun ynni gwynt Cefn Croes. Bron na welen I'r dagrau yn ei lygaid-e. Byddai'r datblygiad 54MW meddai fe, y mwyaf o'i fath ym Mhrydainos nad Ewrop ar y pryd, yn dinistrio'r olygfa o ben Pumlumon, golygfa a oedd iddo fe gystal a bod yn gysgredig. Wrth sefyll ar ben Pumlumon heddiw nid dinistr welaf i ond rhyfeddod troi gwynt yn drydan, troelli cyffrous y llafnau yn bywiocau'r olygfa, a chyfaredd y ffaith fod yr ardaloedd ol-ddiwydiannol, dibobledig, yna unwaith eto yn cyfrannu at yr economi ac yn creu cynnyrch tra gwerthfawr.

Mae'n sicr bod fersiwn (1) wedi cyfrannu'n sylweddol at fethiant Cymru i gyflawni'i photensial ym maes ynni adnewyddol, elfen gwbl allweddol yn agenda Datblygu Cynaliadwy.

Pryder am warchod y dirwedd amhrisiadwy oedd y tu ol i'r penderfyniadau cynllunio gan Lywodraeth Cymru a arweiniodd at fethiant Cwmni Cambrian Engineering a oedd yn adeiladu tyrau i dyrbeiniau gwynt ac yn cyflogi 80 o weithwyr Gwynedd, y mwyafrif yn Gymry Cymraeg. Roedd gan y perchen, David Williams, syniadau cyffrous am ddatblygu porthladd Caergybi ar gyfer allforio tyrau a hefyd weithgynhyrchu tyrbeiniau ac eitemau eraill.

Yr un pryder a barodd i'r gwaith o gynhyrchu fframwaith gynllunio ar gyfer ynni adnewyddol, wedi sefydlu'r Cynulliad, fod mor drafferthus ac estynedig, yr hyn a arweiniodd ymhen hir a hwyr at y drwgenwog TAN 8 a'r cythrwfl camwybodus a negyddol sy ohoni heddiw ym Mhowys, y ciliodd Llywodraeth Cymru mor llywaeth a sydyn o'i flaen-e.

Rwy'n cofio aelod o staff Cyngor Cefn Gwlad yn traethu yn y Cynulliad ar fframwaith cynllunio ynni gwynt ar for ac yn rhestru rhesymau dros wrthod caniatad. Un rheswm posibl meddai hi fyddai bod yna baentiad enwog, gan Turner er enghraifft, o ryw olygfa forol.

Pan ddatblygodd melin lifio coed y Bontnewydd ar Wy gynllun i gynhyrchu gwres a thrydan o wastraff coed a choed conifferaidd yr oedd hi'n gynyddol anodd eu gwerthu a achos y cynnydd mewn ailgylchu papur, un o'r gwrthwynebiadau a restrwyd gan Asiantaeth yr Amgylchedd oedd y byddai colofn o ager o'r gwaith – colofn ager nid colofn o dan na cholofn o fwg – yn llychwino'r olygfa. Tagwyd y cynllun.

Pan ddaw cynllun arloesol Camddwr, ar gyfer ffarm wynt ym mynyddoedd y Cambria, ardal Elenydd, y tu hwnt i Dregaron, rwy'n rhagweld y cawn ni'r un gwrthynebiadau a'r un dadleuon.

Mewn cynhadledd ar ynni adnewyddol y ces i'r fraint o'i chadeirio lai na blwyddyn yn ol, cwyn gyffredinol y cwmnioedd oedd yn cael eu cynrychioli yna oedd pa mor anodd yw hi i wneud busnes, a thrwy hynny i dyfu, i gystadlu, i gynhyrchu elw ac i greu swyddi yng Nghymru. Roedd y cyferbyniad a'r Alban yn cael ei nodi dro ar ol tro.

Mae Gareth Clubb o Gyfeillion y Ddaear Cymru wedi dadansoddi'r gwahaniaeth yn y maes rhwng Cymru a'r Alban. Yn yr Alban mae capasiti gosodedig (*installed capacity*) ynni adewyddol wedi codi o 1,800MW yn 2004 i 4,360 yn 2010 – cynnydd o 242%. Y ffigyrau cyfatebol yng Nghymru yw 429 a 764, cynnydd o 56%. Targed Cymru i ynni adnewyddol oedd 4TWha erbyn 2010; yr hyn a gaed oedd 1.6TWha

Mae'n wir fod gan Lywodraeth yr Alban bwerau arwyddocaol sy ddim ar gael I Lywodraeth Cymru, sy wedi galluogi'r Alban e.e. i arloesi yn nhechnoleg llanw a thonau yn ogystal a gwynt. Ond yn fy marn i mae a wnelo hyn lawn cymaint, efallai fwy, ag ewyllys gwleidyddol ag a phwerau. A rhan o'r broblem yw Cymru Fersiwn 1 Cymru lan Cymru lonydd, y dirwedd gysegredig y mae rhaid ei chadw'n ddilychwin, costied a gostio. Tebyg bod llwyddiant y mudiad gwrth-GMO yng Nghymru yn adlewyrchu'r un weledigaeth.

Rydyn ni mewn sefyllfa felly lle mae ystyriaethau amgylcheddol o fath arbennig, a gofynion rheoleiddio amgylcheddol llym iawn, yn dramgwydd i ddatblygu cynaliadwy, sef yr union fath o ddatblygu y mae rhaid ei gael-e er lles yr amgylchedd naturiol!

Nawr rwyf eisiau ehangu'r drafodaeth a gofyn beth ddylai'n hagwedd ni I fod at ddatblygiadau economaidd nad ydyn nhw, mewn gwirionedd, yn gynaliadwy yng ngwir ystyr y gair. Ond cyn mynd ymhellach gaf i , ar gyfer y cofnod, ddweud mod i mor argyhoeddedig ag y bues erioed fod patrwm presennol datblygiad y byd yn ein harwain i drybini difrifol mewn sawl cyfeiriad, a bod angen newid cyfeiriad sylfaenol. Fe drafododd Gareth Wyn Jones hyn yn ddiweddar mewn anerchiad meistrolgar i gynhadledd SMC, *Overshooting Limits or Seeking a new Paradigm?*

Y cwestiwn yw beth allwn ni yng Nghymru ei gyfrannu'n ddefnyddiol at y paradeim newydd tra'n gwneud rhywbeth hefyd am ein tangyflawni economaidd truenus-ni? Gan gofio ar yr un pryd mai byw yng nghysgod y trawsnewidiad fyddwn ni, nid, a bod yn giaidd o onest am funud, ei arwain e.

Gadewch i ni gymryd un enghraifft. Mae'n edrych yn debyg bod ffynonellau nwy naturiol Cymru yn aruthrol, ar ffurf nwy sial a nwy wedi'i gynhyrchu o'r gwythiannau glo helaeth sy'n dal ar gael o dan ddaear a than foroedd Cymru, ee ym Mae Abertawe. Mae allyriadau o losgi nwy yn llai o dipyn nag o losgi glo ac olew ond go brin eu bod nhw'n ffitio diffiniad datblygu cynaliadwy. O ddatblygu'r

ffynonellau yma'n ddeallus a'u gosod yn fframwaith polisiau eraill megis datblygu'r gweithlu a chreu cadwyni cylfenwi Cymreig, tybed a allai nwy naturiol Cymru gael yr un effaith trawsnewidiol ar sefyllfa Cymru ag olew Mor Udd yn yr Alban? Fy marn i yw y byddai'n wallgof i Gymru ymwrthod a'r cyfle yma yn enw cynaliadwyedd ac oherwydd meddylfryd Cymru lan Cymru lonydd. Gorau i gyd wrth gwrs pe bai modd arloesi gyda thechnoleg Cipio a Chadw Carbon. Ond yr ymateb otomatig i'r posibilrwydd fuodd gwrthwynebiad. Cymru lan, Cymru lomydd.

Dyma fi nol at y cwestiwn, sut y dylai Cymru ddehongli'r ymrwymiad cenedlaethol i hyrwyddo Datblygu Cynaliadwy?

Yn fy marn i, a siarad yn gyffredinol, drwy wneud pethau yn hytrach na pheidio gwneud pethau. Drwy weld Datblygu Cynaliadwy nid fel cloffrwm ond fel cyfle i ennill y blaen. Nid fel cyfres o rwystrau a gwrthgloddiau y mae rhaid eu croesi cyn gwneud dim. Nid drwy fod yn blant da ecolegol. Ond yn hytrach drwy wthio ffiniau dyfeisgarwch ac arloesi a bacho;r cyfleoedd pan ddon nhw. Os yw hwnna'n heresi amgylcheddol, mae e hefyd yn synnwyr cyffredin i genedl fach y mae ei hol troed casgliadol ar amgylchedd y byd yn bitw bitw fach, ac sy mewn cryn bicil yn economaidd.

Dyma ni o'r diwedd at y Ddeddf Datblygu Cynaliadwy arfaethedig. Rhan o'r cefndir i hwnna yw'r Siarter Datblygu Cynaliadwy sy yn ol Llywodraeth Cymru yn 'pennu ein gweledigaeth ar gyfer Cymru gynaliadwy' ac yn cyfeirio at DdC fel egwyddor drefnu ganolog eu polisiau, gan dynnu ar Gynllun/Scheme DC Llywodraeth Cymru'n Un, *Cenedl Un Blaned*.

Mae pedair elfen i'r siarter:

- byw o fewn ein cyfyngiadau amgylcheddol, gan ddefnyddio ein cyfran deg yn unig o adnoddau'r ddaear
- cefnogi ecosystemau iach, cynhyrchiol a biolegol
- adeiladu economi gynaliadwy a chref, gan feithrin economïau a chyflenwyr lleol
- mwynhau cymunedau diogel, cynaliadwy a **deniadol**
- creu gwlad deg, gyfiawn a dwyieithog

Wel ardderchog, gallech chi ddweud. Beth sy'I eisïau'n well na hynna? Ond rwy'n poeni am rai gweddau o'r rhestr.

Mae cwestiwn yr ol-troed amgylcheddol a y brig. Nawr-te, pe baen ni'n llwyddo I leihau'r bwlch ffyniant rhwng Cymru a gweddill y DG, un effaith anochel fyddai cynyddu'n ol troed amgylcheddol.

Petaen ni'n llwyddo i wella'n rhwydwaith ffyrdd cyntefig, yn enwedig o fewn Cymru ac o'r De i'r Gogledd, a gweld mwy o ddefnyddio arnyn nhw, sy'n bwysig iawn o ran uno'r genedl, byddai hynny'n cynyddu allyriadau carbon, oni bai i danwyddau newydd gael eu datblygu – a dyw Cymru ddim yn mynd i wneud hwnna ar ei phen ei hunan.

Mae'r Gronfa Natur Fyd-eang (WWF), un o'r mudiadau gwirfoddol amgylcheddol mwyaf dylanwadol, yn achwyn nad yw'r ol-troed ecolegol global yn cael ei bwysleisio ddigon wrth baratoi at y Ddeddf newydd. Mae hyn, yn fy marn i, yn dangos persbectif Prydeinig yn cael ei drosglwyddo'n otomatig i'r llwyfan Cymreig, heb ymdrech i feddwl yn greadigol am broblemau a blaenoriaethau penodol Cymru.

Mae'r ffaith mai yn drydydd ac nid yn gyntaf y mae cwestiwn yr economi'n dod yn fy mhoeni, ac er mod i'n cydymdeimlo'n reddfol a'r pwyslais ar y lleol, ac yn cydnabod bod modd gwneud llawer yn y cyfeiriad yna, mae angen pwysleisio'r angen i gystadlu mewn marchnadoedd byd-eang yn ogystal.

Beth felly ddylai fod sylfeini'r Ddeddf Datblygu Cynaliadwy newydd? Mae gofyn y cwestiwn yn gyfystyr a gofyn Pa Fath o Gymru rydyn ni am weld. Felly, a chydabod bod perygl mewn rhyw fath o ddeuolrwydd simplistig, dyma gynnig ar ddau ddewis. Mi allwn naill ai

1 Barhau ar, neu'n wir ymrwymo ymhellach, i'r trywydd presennol, pwyslais ar warchodaeth amgylcheddol a byw o fewn y cyfyngiadau global datblygu pob math o fentrau lleol amrywiol sy'n cadw'n ddiamwys o fewn y templad Datblygu Cynaliadwy ac ennill Brownie points gan yr amgylcheddwyr ac o fewn Rhwydwaith y Rhanbarthau dros Ddatblygu Cynaliadwy ymwrthod a thwf yr economi fel ystyriaeth ganolog a derbyn dibyniaeth Cymru ar drosglwyddiadau ariannol o San Steffan, gyda'r oll y mae hynny'n ei olygu o ran ein huchelgais cenedlaethol cyfansoddiadol-ni.

Neu mi allwn

2 fod yn fwy uchelgeisiol o lawer defnyddio Datblygu Cynaliadwy yn beiriant ar gyfer gwella'n perfformiad economaidd fel y flaenoriaeth gyntaf – i fabwysiadu geiriau Elin Jones AC, creu chwyldro diwydiannol newydd yng Nghymru derbyn yr angen am gyfaddawd wrth warchod yr amgylcheddol, ac yn arbennig y dirwedd weledol diddyfnu'n hunain dros amser o'n dibyniaeth ar Drysorlys San Steffan a chadw'n hopsiynau cyfansoddiadol yn agored yn ol yr hyn sy'n fanteisiol i Gymru.

Rwy'n ffafrio'r ail opsiwn ac yn argymhell felly'r egwyddorion canlynol ar gyfer y Ddeddf Datblygu Cynaliadwy newydd:

targedu a chefnogi'n arbennig sectorau amgylcheddol all gyfrannu at dwf yr economi. [Rhestr ddefnyddiol, er wedi dyddio, yn nogfen Plaid Cymru, *Dyfodol Cynaliadwy i Gymru* (1998)]
creu fframwaith gynllunio a rheoleiddiol a fydd yn hwyluso a chyflymu datblygiad y sector ac yn dileu rhwystrau i hynny

datblygu a chynnal ein hasedau amgylcheddol, yn cynnwys dwr ac ynni,
er budd economaidd y genedl
Sefydlu hierarchiaeth o ystyriaethau a fydd yn gosod newid hinsawdd,
bioamrywiaeth a chontrolio llygredd yn uwch na gwarchod y dirwedd
weledol
magu arbenigedd o ran rhagweld a dadansoddi tueddiadau polisi
rhyngwladol ac Ewropeaidd er mwyn pennu cyfeiriad datblygiad ein
heconomi
peri bod busnesau Cymru yn hyddysg yn y tueddiadau hyn ac yn ceisio
achub y blaen o'r herwydd
sichrau bod deall Datblygu Cynaliadwy yn allweddol yng ngwricwlwm ein
sefydliadau addysgol o'r brig i'r bon er mwyn creu cenedl sy'n hyddysg yn
y maes
derbyn bod rhaid gosod iechyd yr amgylchedd naturiol yng nghyd-destun
y rheidrwydd i wella perfformiad economaidd Cymru
cynnwys GVA y pen a thwf economaidd o fewn fframwaith ehangach o
ddangosyddion economaidd
gwneud popeth posibl i beri bod ffrwyth llwyddiant economaidd yn cael
ei gysylltu'n gryf a cyfiawnder cymdeithasol ac adfywhau cymunedol

Bron na ddaleuen i dros fabwysiadu esgyll englyn Taliesin o Eifion yn arwyddair
i bolisi datblygu cynaliadwy Cymru:

Cymru deg, cymer y dydd
Gwlad y gan, gwel dy gynnydd.

Ymgynghoriad ar y cynigion ar gyfer y Bil Datblygu Cynaliadwy - Ymateb Cymdeithas yr Iaith Gymraeg

I. Crynodeb

Wrth draddodi darlith Tynged yr Iaith 2 llynedd fe wnaethom gydnabod fod sefyllfa'r Gymraeg mewn argyfwng a bod angen gweithredu ar fyrder. Mae nifer o ffactorau wedi effeithio ar y dirywiad yn y Gymraeg ar lawr gwlad ac mae perygl i'r dirywio hynny barhau oni bai fod camau yn cael eu cymryd i wrthdroi'r arfer hwnnw.

Credwn ei bod yn bwysig bod y Gymraeg yn rhan o integreiddio polisiau, ac felly rydym yn croesawu'r ffaith bod cyfle, trwy'r Bil arfaethedig hwn, i sicrhau y bydd pob penderfyniad a wneir gan gyrrff cyhoeddus yn llesol i iaith unigryw Cymru. Mae'r rhan fwyaf o benderfyniadau a pholisiau - gan gynnwys datblygiadau tai ac ad-drefniadau addysg - yn cael effaith ar y Gymraeg; ac mae'r iaith wedi dioddef yn y gorffennol oherwydd penderfyniadau anghynaliadwy mewn nifer o feysydd. Mae hwn felly yn gyfle pwysig i sicrhau bod y Gymraeg yn elwa bob tro bydd cyrrff yn gwneud penderfyniad. Mae hefyd yn gyfle i symleiddio penderfyniadau a fyddai'n osgoi trin y Gymraeg yn docenistaidd ac arwynebol.

Fe wnaethom hefyd ddweud yn narlith Tynged yr Iaith 2 fod gan bob cymuned botensial i fod yn gymuned Gymraeg; er mwyn gwireddu hynny bydd angen newid meddylfryd mewn sawl maes. Mae'r Gymraeg yn ganolog i ddatblygu cynaliadwy ac mae Llywodraeth Cymru wedi cydnabod bod cysylltiad rhwng y Gymraeg a'r mater yma o'r blaen megis yn y ddogfen "Cymru'n Un: Cenedl Un Blaned" a gyhoeddwyd yn 2009.

Credwn fod rheidrwydd ar y ddeddfwriaeth i gydnabod yn ddiamwys bod yr iaith Gymraeg yn rhan hanfodol ac annatod o ddatblygu cynaliadwy.

Credwn felly fod:

- yn rhaid i'r Gymraeg fod yn rhan greiddiol o'r diffiniad o gynaliadwyedd a geir yn y ddeddfwriaeth;
- angen hawliau statudol i gymunedau ac unigolion herio penderfyniadau cyrrff ar sail amcanion, egwyddorion ac ymddygiad datblygu cynaliadwy;
- angen i'r Gymraeg fod yn hanfodol i'r Corff Datblygu Cynaliadwy newydd, gyda'r corff yn gweinyddu trwy gyfrwng y Gymraeg a'i arweinwyr yn rhugl yn y Gymraeg. Ystyriwn y byddai unrhyw Gomisiynydd yn ddifffygiol na bai crap llawn ar y Gymraeg ganddi/o, fel arall ni fyddai yn llwyr ymwybodol o un o golofnau allweddol datblygu cynaliadwy.
- angen grymoedd ehangach a chryfach ar y corff newydd i annog a gorfodi newid ymddygiad er mwyn sicrhau dyfodol cynaliadwy.

Gwelwn debygrwydd rhwng y ddeddfwriaeth hon a deddfwriaeth yn ymwneud â'r Gymraeg dros y blynyddoedd. Dangosodd 19 mlynedd o fodolaeth Bwrdd yr Iaith Gymraeg mai prin iawn y gellid newid ymddygiad a meddylfryd cyrrff heb fod grymoedd yn nwylo pobl a bod gan gorff statudol rymoedd gorfodol a'r gallu i osod dirwy.

Gwelwyd tueddiad gan Lywodraeth Cymru i wrthod grymuso pobl a chymunedau ar lawr gwlad. Deallwn fod hyn yn rhannol oherwydd bod ganddom ddeddfwrfa newydd yng Nghymru sydd yn dal i ganfod ei le yn ddeddfwriaethol. Hefyd, gwelwyd y Llywodraeth yn petruso wrth osod egwyddorion cyffredinol ar wyneb deddfwriaeth: tueddiad sydd yn hynod o anffodus oherwydd ei fod yn tueddu i rymuso a ffafrio sefydliadau yn hytrach na phobl a'r blaned.

II. Y Gymraeg fel rhan o ddiffiniad “datblygu cynaliadwy”

Mae'r Gymdeithas yn gweld dyfodol ffyniannus i'r iaith Gymraeg fel cyfrwng naturiol ein cymunedau; mae hyn yn rhannol ddibynnol ar ddatblygiadau sydd yn gynaliadwy.

Yn y cyhoeddiad “Cymru'n Un: Cenedl Un Blaned” a gyhoeddwyd yn 2009 gan Lywodraeth Cymru pwysleisiodd pwysigrwydd y Gymraeg fel rhan o'r diffiniad datblygu cynaliadwy a lles yng Nghymru. Datganwyd un o'r prif ganlyniadau lles yng Nghymru fel y ganlyn: *“Caiff diwylliant, gwerthoedd a thraddodiadau cyfoethog Cymru eu dathlu, yn arbennig drwy annog amrywiaeth, natur unigryw a hyrwyddo'r Gymraeg, gofalu am ein treftadaeth a meithrin natur unigryw leol ac ymdeimlad o le, a chynnig treftadaeth a diwylliant cryf. Un o nodau cyffredinol y ddogfen oedd i sicrhau bod: “modd defnyddio'r Gymraeg mewn gweithgareddau cymdeithasol, hamdden a busnes heb gyfyngiadau ar draws Cymru, a chaiff amgylchedd hanesyddol a diwylliannol Cymru ei ddiogelu a'i gynnal i bawb ei fwynhau.”*

Mae'r ddogfen ymgynghorol hon yn sôn am wneud datblygu cynaliadwy yn “brif flaenoriaeth y dylid seilio penderfyniadau arni” a'r “prif egwyddor drefniadol”. Yn y cyd-destun hwnnw felly, mae'n hanfodol bod lles y Gymraeg yn rhan o ddiffiniad statudol datblygu cynaliadwy. Credwn hefyd ei fod yn bwysig bod y ddyletswydd yn un glir sydd yn golygu bod angen cyflawni dros y Gymraeg yn hytrach nag ei hystyried yn unig.

Mae'r ddogfen yn sôn am ei wneud yn ofynnol i sefydliadau penodol weithredu'n gyson â'r egwyddorion datblygu cynaliadwy. Heblaw i'r Gymraeg fod yn rhan annatod o hynny, mae yna berygl y bydd cyrff cyhoeddus, busnesau a sefydliadau eraill yn is-raddio eu hymrwymiaid i'r Gymraeg. Gan nad yw'r Gymraeg yn cael ei gosod fel egwyddor o ddatblygu cynaliadwy bydd sefydliadau yn cael yr argraff nad yw'r Gymraeg yn rhywbeth hanfodol ond yn rhywbeth ymylol.

Er mwyn cael ei chymryd o ddifrif felly, rhaid i'r Gymraeg fod yn rhan greiddiol o'r diffiniad o gynaliadwyedd a geir yn y ddeddfwriaeth.

Nid oes sôn yn benodol yn y ddogfen ymgynghorol am ddatblygiadau cynaliadwy o ran effaith ar y Gymraeg – er bod angen edrych ar effaith datblygiadau tai o'r perspectif hwn eisoes yn unol â TAN 20. Efallai y gellid dadlau bod yr agwedd hon yn gynwysedig fel rhan o'r elfen ‘gymdeithasol’. Er hynny, gan mai nod y cynllun yw gwella lles pobl a chymunedau dros y tymor hir dylid sôn yn benodol am yr agweddau ieithyddol/diwylliannol. Mae'r papur *Culture as the Fourth Pillar of Sustainable Development* gan Keith Nurse (paratowyd ar gyfer Commonwealth Secretariat, Mehefin 2006) yn nodi:

‘Culture should be viewed not just as an additional pillar of sustainable development along with environmental, economic and social objectives because peoples’ identities, signifying systems, cosmologies and epistemic frameworks shape how the environment is viewed and lived in. Culture shapes what we mean by development and determines how people act in the world.’

Mae cynllun cynladwyedd gwlad y Basg er enghraifft yn son am yr angen 'to promote international projections of Basque culture and elements that define our identity.' (Pwynt 7.3 o Strategaeth Ddatblygu Cynaliadwy Gwlad y Basg 2020)

Yn yr un modd mae www.culturalsustainability.eu yn sôn am yr angen i bwysu a mesur twf economaidd ac anghenion ieithyddol a diwylliannol. Gall yr agweddau diwylliannol helpu i greu 'brand' er enghraifft. Mae egwyddorion confensiwn UNESCO 2005 (convention on the protection and promotion of cultural expressions) hefyd yn cryfhau'r achos dros gynnwys y Gymraeg fel rhan o ddiffiniad datblygu cynaliadwy. :

Article 2 Para 6 -- Principle of sustainable development: *Cultural diversity is a rich asset for individuals and societies. The protection, promotion and maintenance of cultural diversity are an essential requirement for sustainable development for the benefit of present and future generations.*

Article 13 – Integration of culture in sustainable development: *Parties shall endeavour to integrate culture in their development policies at all levels for the creation of conditions conducive to sustainable development and, within this framework, foster aspects relating to the protection and promotion of the diversity of cultural expressions.'*

Am y rhesymau uchod ac eraill felly, credwn fod angen diffiniad clir yn y ddeddfwriaeth o ystyr datblygu cynaliadwy ac i hynny gynnwys lles y Gymraeg yn benodol yn y diffiniad statudol.

III. Sefyllfa'r Gymraeg ar lefel gymunedol

Mae sefyllfa'r Gymraeg yn ein cymunedau ar drai. Fe ddangosodd y cyfrifiad diwethaf gwmp sylweddol yn y nifer o gymunedau lle mae'r Gymraeg yn cael ei siarad gan 70% o'r boblogaeth. Rhwng cyfrifiad 1991 a 2001, fe gwmpodd y nifer o'r cymunedau hynny o 92 i 54 a disgwylir cwmp sylweddol arall yn ffigyrau'r cyfrifiad a gynhaliwyd y llynedd. Mae'n glir bod dyfodol yr iaith fel iaith gymunedol o dan fygythiad mawr iawn felly.

Mae angen sicrhau dyfodol cymunedau Cymraeg felly trwy amddiffyn a thyfu'r nifer o gymunedau lle mae'r Gymraeg yn iaith naturiol ynddynt. Mae gan y ddeddfwriaeth hon rôl bwysig iawn i'w chwarae wrth geisio gwrth-droi'r patrwm o ostyngiad yn y nifer o gymunedau Cymraeg. Yn eu darlun ystadegol eleni, fe ddangosodd adroddiad Bwrdd yr Iaith y prif ffactorau sydd yn dylanwadu ar ddyfodol y Gymraeg yng Nghymru - gan gynnwys allfudo, mewnfudo ac addysg yn eu plith. Mae Llywodraeth Cymru yn cytuno.

Mae Strategaeth Iaith Gymraeg y Llywodraeth yn cydnabod yr her yn glir:

"[Mae] nifer y cymunedau yng Nghymru lle mae dros 70 y cant o'r boblogaeth yn siarad Cymraeg wedi lleihau yn sylweddol dros y degawdau diwethaf. Mae prosesau mewnfudo ac allfudo, cyfleoedd gwaith cyfyngedig a chyflenwad cyfyngedig o dai fforddiadwy wedi cael effaith sylweddol ar broffil demograffig a phroffil ieithyddol sawl cymuned."

"Bydd yr heriau penodol yn amrywio o ardal i ardal ond maent yn debygol o gynnwys materion fel y tai fforddiadwy sydd ar gael, diffyg cyfleoedd gwaith, nifer isel o rieni/gofalwyr yn trosglwyddo'r Gymraeg i'w plant, statws isel yr iaith o fewn y gymuned, diffyg cyfleoedd i ddefnyddio'r iaith, a mewnfudo ac allfudo. Mae'n rhaid i'r gwaith adnewyddu ieithyddol fynd law yn llaw â'r gwaith o wella seilwaith cymdeithasol ac economaidd yr ardaloedd hyn er mwyn helpu i sicrhau bod gwell cyfleoedd gwaith a rhagor o dai fforddiadwy ar gael fel y gall pobl aros yn eu cymunedau. Bydd gwella gallu'r

cymunedau eu hunain i gynnig rhagor o wasanaethau a gweithgareddau Cymraeg yn agwedd bwysig ar y gwaith hwn.”

Yn bwysicach oll, mae'r Strategaeth yn amlinellu:

“Rhennir yr heriau hyn, felly, ar draws holl bortffolios y Gweinidogion ac adrannau Llywodraeth Cymru, a byddwn yn prif ffrydio'r Gymraeg yn ein polisiau datblygu economaidd a'n polisiau datblygu cymunedol fel y bo'n briodol.”

Mae'r Strategaeth hefyd yn tynnu sylw at bwysigrwydd Cynlluniau Datblygu Lleol, eu heffaith ar y Gymraeg a'i rôl mewn datblygu cynaliadwy. Ymhellach, mae'r strategaeth yn ymrwmo i:

“Prif ffrydio'r iaith o fewn ein holl waith sy'n ymwneud â chefnogi a datblygu cymunedau ledled Cymru.”

Ymrwymiad sy'n codi'r cwestiwn amlwg felly: gyda Bil mor bwysig â hwn sy'n gosod “prif egwyddor drefniadol”, ydy'r Gymraeg wir yn cael ei phriff ffrydio yn y ddeddfwriaeth arfaethedig? Heb amheuaeth, dydy hi ddim yn ôl y ddogfen ymgynghorol bresenol, felly croesawn y cyfle i gyfrannu at yr ymgynghoriad i sicrhau ei bod hi.

IV. Enghreifftiau eraill o ymddygiad gwahanol

Rhestrir nifer o enghreifftiau yn y ddogfen ymgynghorol o'r ymddygiad y byddai disgwyl i sefydliadau eu harfer pe bai rheidrwydd i ystyried datblygu cynaliadwy wrth weithredu ym mhopeth y byddai'r sector yn ei wneud. Hoffem dynnu eich sylw at benderfyniadau y byddem yn disgwyl eu gweld yn wahanol. Ymysg y rhai o'r polisiau neu ddatblygiadau y byddem yn disgwyl i gael eu hepgor neu rwystro oherwydd y Bil fyddai: datblygiadau tai megis y cynlluniau arfaethedig ym Modelwyddan a Chaerfyrddin; gorsaf niwclear newydd Wylfa B; Ffos y Frân; Sell to Wales; Cynlluniau i gau ysgolion pentrefol; a datblygiadau 'all-drefol'.

Dylai bil cynaladwyedd cryf ateb y cwestiynau canlynol mewn modd a fyddai'n sicrhau buddiannau'r Gymraeg a'n cymunedau:

- A fydd ei ddarpariaethau atal datblygiadau sydd yn niweidiol iawn i'n cymunedau Cymraeg?
- A fydd y Gymraeg yn gryfach o ran nifer o siaradwyr, canran y siaradwyr, ei defnydd a statws?
- A fydd yn atal datblygiadau tu allan i'n trefi a'n pentrefi, y canoli gwasanaethau, y cau ysgolion gwledig a'r meddwl economaidd byrbwyll sydd yn hybu mewnfudo mewn datblygiadau yn dal i gael eu ffafrio?
- Pa hawliau fydd gan gymunedau i sicrhau bod dyfodol i'r Gymraeg yn ein cymunedau yn ddiogel a hwnnw'n ddyfodol hyfyw?

Gallai'r bil hwn gyfrannu tuag at newid gwirioneddol wrth ystyried y Gymraeg o fewn y broses gynllunio. Mewn ardaloedd â phoblogaeth uchel o siaradwyr Cymraeg, gallai'r Awdurdod Lleol osod safonau uwch mewn perthynas â'r Gymraeg wrth gynllunio ar gyfer dyfodiad archfarchnad neu fusnes mawr i'r ardal. Yn rhy mal, rhoddir caniatâd cynllunio i archfarchnadoedd heb ystyried eu hymrwymiad i'r Gymraeg o ran darparu arwyddion Cymraeg a gwasanaeth Cymraeg. Er enghraifft, bwriedir agor siop Tesco ym Methesda, ardal dwysedd uchel o siaradwyr Cymraeg. Mae peryg i'r siop danseilio'r iaith Gymraeg yn yr ardal wrth gyflwyno mwy o Saesneg i'r ardal. Er mwyn osgoi hyn, gellid mynnu yn sgil y bil cynaliadwyedd fod Tesco yn

creu swyddi sydd â'r Gymraeg yn sgil hanfodol iddynt. Fel hyn, bydd y sawl â sgiliau Cymraeg yn gallu aros yn yr ardal ac yn gallu cynnig gwasanaethau iaith Gymraeg i'r cwsmeriaid lleol. Dyma'r gwahaniaeth y gallai bil cynaliadwyedd ei wneud er mwyn sicrhau fod datblygiadau yn cyfrannu i gynaliadwyedd iaith yn ogystal â'r gymuned yn gyffredinol.

Rydym wedi ein siomi hefyd o weld bod y ddeddfwriaeth yn gwneud nifer o gamgymeriadau a welwyd mewn deddfau blaenorol yn ymwneud a'r Gymraeg. Fe welwyd yn glir yn achos Bwrdd yr Iaith Gymraeg a chynlluniau iaith nad yw cynlluniau sydd yn niwlog eu hystyr a heb oblygiadau pan cant eu hanwybyddu yn arwain at newid. Gwelwyd bod dyfodol y Gymraeg wedi ei thanseilio ar lefel gymunedol gan nad oes cosb i awdurdod yn sgil datblygiad tai di-angen neu gau ysgol leol. Rhaid dysgu o'r profiad hwn a chreu cynlluniau sydd â phwrrpas clir a "dannedd" statudol.

Mae angen cynlluniau economaidd, yn y gorffennol gwelwyd pwyslais ar nifer llai o ddatblygiadau mawr. Ynghlwm â nifer ohonynt, megis Wylfa B, roedd cynlluniau ar gyfer nifer sylweddol o dai, a fyddai felly yn hybu mewnfudo. Mae enghreifftiau eraill, fel ym Modelwyddan, ble mae cynlluniau ar gyfer nifer llawer mwy sylweddol na'r boblogaeth a ragwelir y bydd yn byw yno ac a fyddai'n troi trefi a phentrefi yn ardaloedd i gymudwyr fyw yn ystod yr wythnos, gan chwalu'r syniad o gymuned. Yn ogystal mae peryglon amgylcheddol a defnydd anghynaliadwy o adnoddau naturiol gyda hyn.

Ymhellach, credwn ei fod yn hanfodol i'r Comisiynydd Datblygu Cynaliadwy siarad Cymraeg, a bod amddiffyn cymunedau Cymraeg yn rhan o bwrpas a chylch gwaith y Comisiynydd.

V. Pwyntiau Cyffredinol

Er ein bod yn croesawu'r ffaith bod y ddogfen ymgynghorol yn cyfeirio at *"sut i adeiladu ar ein hetifeddiaeth ddiwylliannol, gan gynnwys y Gymraeg"* ar dudalen 3, nid yw diffiniad arfaethedig y Llywodraeth o ddatblygu cynaliadwy, yr amcanion, na'r ymddygiad datblygu cynaliadwy yng ngweddill y ddogfen yn cyfeirio ati o gwbl. Felly mae'r ddogfen yn ei chyfanrwydd yn rhoi'r argraff na fydd cyfeirio at y Gymraeg yn y Bil, ac ni fydd chwaith yn cael ei hystyried fel rhan ganolog o ddatblygu cynaliadwy gan y corff datblygu cynaliadwy.

Credwn y dylai fod sôn am "lles y Gymraeg" yn y diffiniad o gynaliadwyedd ar dudalen 9 o'r ddogfen ymgynghorol.

Credwn y dylid cryfhau'r geiriad *"cymdeithas a chanddi ymwybyddiaeth fyw o'i diwylliant, ei hiaith a'i threftadaeth, lle caiff amrywiaeth ddiwylliannol, ymdeimlad o le a gwahaniaeth eu dathlu a'u gwerthfawrogi."* ar dudalen 10. Nid yw ymwybyddiaeth yn unig o'r iaith Gymraeg yn ddigonol gan ei bod yn iaith sydd bellach â statws swyddogol o dan ddarpariaethau Mesur y Gymraeg (2011). Dylai'r Bil arfaethedig hwn gydnabod a chadarnhau'r statws yna.

Rydym yn croesawu'r pwyslais ar roi ystyriaeth y dyfodol yn y tymor hir ar dudalen 11 gan fod meddylfryd tymor byr yn gallu tanseilio'r Gymraeg. Fe welwn engreifftiau o hyn gyda phenderfyniadau i amddifadu plant o'u hawl i fod yn rhugl yn Gymraeg drwy gau ysgolion cymunedol Cymraeg: penderfyniadau sydd yn tanseilio'r iaith fel iaith fyw gymunedol. Ymhellach, mae llawer iawn o gyrff yn gwrthod gwneud y Gymraeg yn sgil hanfodol ar gyfer swyddi: penderfyniadau sydd yn arwain yn uniongyrchol at ddiffyg gwasanaeth Gymraeg ar lawr gwlad a llai o ddefnydd ohoni yn y gweithle. Fe welir nifer o awdurdodau lleol yn ehangu ar ddarpariaeth addysg Gymraeg ond heb greu swyddi hanfodol Cymraeg a fyddai'n creu cyfleoedd gwaith i bobl ifanc a fyddai'n eu galluogi i aros yn eu cymunedau.

Ar dudalennau 10 ac 11, croesawn y gydnabyddiaeth o "lles" tu hwnt i gyflog yn unig, ond eto nid oes cyfeiriad at y Gymraeg.

Cytunwn hefyd gyda'r pwyslais ar weithio ar draws ffiniau, mae diffyg darpariaeth gwasanaethau Cymraeg yn deillio o'r system addysg / hyfforddiant. Er enghraifft mae rhai cleifion dementia yn troi yn ôl at eu mamiaith ond methu derbyn triniaeth trwy'r cyfrwng Cymraeg oherwydd diffygion hyfforddiant a chynllunio yn y GIG. Mae'r enghraifft hwnnw hefyd yn enghraifft arall o sut mae'r diffyg gwasanaeth Gymraeg yn effeithio ar les pobl ar lawr gwlad.

Cytunwn hefyd â'r pwyslais ar gymryd rhan: gwelwn nifer o enghreifftiau lle mae cynlluniau ad-drefnu ysgolion yn gwrthod ystyried opsiynau eraill ac yn gweithredu'n wrth-ddemocrataidd gyda swyddogion yn gorfodi cynlluniau ar bobl leol.

Serch hynny, anghytunwn â pharagraff 38, tudalen 18 lle dywedir "Rydym yn gwybod bod hyn yn her anodd a thymor hir, a bydd sicrhau bod pawb yn mabwysiadu meddylfryd datblygu cynaliadwy wrth ystyried pob penderfyniad yn daith yn hytrach nag yn ddigwyddiad." Credwn y dylai'r Bil atal ymddygiad yn syth, yn y tymor byr.

Mae'r cyfeiriad at gyfraniad honedig Cynlluniau Datblygu Lleol at ddatblygu cynaliadwy ym mharagraff 52, tudalen 24 yn amlygu gwendid diffiniad pen agored datblygu cynaliadwy fel y mae ac effaith y gwendid hwnnw ar y Gymraeg. Mae cynlluniau datblygu lleol, fel y mae, yn hybu mewnfudo a chymudo sydd yn tanseilio cymunedau Cymraeg.

VI. Cwestiynau Penodol yr Ymgynghoriad

Cw.1 Beth yw'r rhwystrau mwyaf rydych yn eu hwynebu rhag gwneud mwy o benderfyniadau cydgysylltiedig tymor hir?

Cw.2 Beth sydd angen ei wneud a chan bwy i leihau neu chwalu'r rhwystrau hyn?

Un o'r rhwystrau mae cyrff yn ei wynebu yw diffyg ystyriaeth, nid yn unig o'r Gymraeg, ond hefyd y cyd-destun ehangach sydd yn effeithio arni. Yn anaml iawn yn ein profiad ni mae nifer o gyrff nad ydynt yn ystyried effaith polisiau cyflogaeth a hyfforddiant ar y Gymraeg, nac ychwaith polisiau cynllunio a chymunedol. Nid oes gwir rym gan neb i atal datblygiadau ar y sail eu bod yn niweidio'r Gymraeg ychwaith. Gwelwn nifer o enghreifftiau lle mae cyflogwyr yn gwrthod neu'n methu darparu gwasanaethau Cymraeg er bod llawer iawn o ddisgyblion yn lleol yn derbyn addysg cyfrwng Cymraeg. Nid yw rhai cynghorau sydd yn hybu a thyfu addysg Cymraeg hyd yn oed yn cymryd y cyfle i wneud y Gymraeg yn hanfodol o fewn eu polisiau cyflogaeth er mwyn sicrhau bod pobl ifanc yn gallu aros yn eu cymunedau. Mae diffyg ymwybyddiaeth o'r materion hyn yn broblem gyffredin iawn ymysg cyrff yr ydym yn dod ar eu traws.

Cw.3 Pa dystiolaeth arall sy'n bod sy'n dangos bod yr agenda datblygu cynaliadwy ar gynnydd a bod Datblygu Cynaliadwy'n cael ei fabwysiadu fel prif egwyddor drefniadol cyrff cyhoeddus?

Os yw'r Gymraeg yn cael ei gweld fel rhan o'r agenda Datblygu Cynaliadwy, prin iawn yw'r enghreifftiau o feddwl cyd-gysylltiedig. Mae sefydlu'r Coleg Cymraeg wedi bod yn gam pwysig ymlaen, ond ni welwn ymdrech cyd-gysylltiedig go iawn i weddu meysydd gwaith lle mae angen llawer o siaradwyr Cymraeg a'r bobl sydd yn dod trwy'r system addysg.

Cw.4 Ydyn ni wedi nodi'r lefel fwyaf priodol o benderfyniadau sefydliadol ar gyfer cymhwyso'r ddyletswydd? Esboniwch.

Cw.5 A fyddai perygl yn hyn o gynnwys rhai penderfyniadau na ddylai fod yn berthnasol o dan y ddyletswydd? Beth fyddai'r rhain?

Cw.6 A oes penderfyniadau sydd heb eu cynnwys a ddylai fod yn berthnasol o dan y ddyletswydd? Beth fyddai'r rhain?

Cw.7 A ddylem ni gynnwys penderfyniadau sy'n rheoli gweithrediadau mewnol sefydliad? Os felly, pa weithrediadau mewnol y dylid eu cynnwys?

Yn gyffredinol, ni chytunwn y dylid mynd at y ddeddfwriaeth o safbwynt dyletswydd, yn hytrach dylid edrych ar hawliau dinasyddion a chymunedau i fyw ac elwa o ddatblygu cynaliadwy. Gellid cyfuno hynny gyda dyletswydd a Chomisiynydd wrth gwrs, ond ni ddylid derbyn bod penderfyniadau yn cael eu gwneud gan uwch-swyddogion yn unig, gan y dylai fod proses democrataidd yn ei harwain; a hynny'n deillio o hawliau democrataidd, economaidd, cymdeithasol ac ieithyddol pobl. Credwn y dylai'r unrhyw ddeddfwriaeth gryfhau hawliau pobl a'u cymunedau.

Fodd bynnag, o benderfynir gosod dyletswydd, credwn y dylai fod ar lefel strategol, gyda'r ddyletswydd yn llifo lawr i lefel polisi neu raglen a phrosiect a gosod datblygu cynaliadwy fel yr egwyddor ganolog ar gyfer gweithredu. Mae strategaeth gwlad y Basg (tudalen 22) yn gosod tair egwyddor:

A) Intergenerational responsibility (assuming responsibility for future generations).

B) Incorporating the perspective of sustainable development into the core of all policies, improving coherence and coordination between the different departments and areas of sectoral policies.

C) Balanced consideration of the repercussions of each policy on the threefold economic, social and environmental dimension, ensuring that balanced progress is made on all three pillars.

D) Joint responsibility.

Cw.8 A ddylai'r ddyletswydd fod yn berthnasol i gynigion cyllideb?

Dylai. Gwelwn nifer o enghreifftiau lle mae dyrannu arian cyhoeddus yn anffafriol i'r Gymraeg gan nad oes dim ystyriaeth o oblygiadau'r penderfyniadau i'r Gymraeg.

Cw.9 A yw'r holl ymddygiadau rydyn ni'n eu nodi yn hanfodol i ymddwyn mewn ffyrdd sy'n adlewyrchu syniadau datblygu cynaliadwy? Esboniwch.

Cw.10 A oes ymddygiadau hanfodol nad ydyn ni wedi'u nodi? Esboniwch.

Cw.11 Beth yw manteision ac anfanteision dynodi ymddygiadau fel y ffactorau datblygu cynaliadwy y mae'n rhaid iddyn nhw ddylanwadu ar benderfyniadau lefel uchel?

Cw.12 Faint o ddylanwad ddylai ymddygiadau datblygu cynaliadwy ei gael ar benderfyniadau lefel uchel – er enghraifft, a ddylai'r penderfyniadau hynny fod yn gyfreithlon os ydyn nhw'n cael eu gwneud mewn ffordd sydd:

- yn cyd-fynd ag un o'r ymddygiadau, rhai ohonyn nhw neu bob un;
- yn adlewyrchu'r ymddygiadau'n fras;
- yn anghyson â'r ymddygiadau

•a oes opsiynau eraill?

Cwestiynau ynghylch yr amcanion

Cw.13 A oes amcanion datblygu cynaliadwy nad ydyn ni wedi'u nodi uchod?

Oes, dylid ychwanegu amcan i gryfhau'r Gymraeg a'i chyflwr yn ein cymunedau.

Cw.14 Beth yw manteision ac anfanteision dynodi amcanion cynaliadwy fel y ffactorau y mae'n rhaid iddyn nhw ddylanwadu ar benderfyniadau lefel uwch?

Cw.15 Faint o ddylanwad ddylai'r amcanion ei gael ar benderfyniadau lefel uwch – er enghraifft, a ddylai'r penderfyniadau hynny fod yn gyfreithlon:

- dim ond os ydyn nhw'n cyfrannu'n weithredol at un neu fwy o'r amcanion hynny;
- os nad ydyn nhw'n amharu ar unrhyw un o'r amcanion;
- hyd yn oed os ydyn nhw'n amharu ar rai o'r amcanion hynny, cyn belled â'u bod yn hybu eraill yn weithredol

• a oes opsiynau eraill? Cwestiwn ynghylch cyfuno'r ddau

Cw.16 Beth yw manteision ac anfanteision seilio dyletswydd ar ymddygiadau datblygu cynaliadwy ac amcanion datblygu cynaliadwy?

Cwestiwn ynghylch y cynnig datblygu cynaliadwy sengl

Cw.17 Beth yw'ch safbwyntiau ar seilio dyletswydd ar gynnig datblygu cynaliadwy sengl?

Nid oes sylwadau penodol gennym ar rai o'r cwestiynau, ond yn gyffredinol, nid ydym yn gweld cymaint â hynny o werth yn y ddyletswydd gyffredinol i hyrwyddo neu ystyried datblygu cynaliadwy – yn aml iawn mae cyrff cyhoeddus fel llywodraeth leol yn gallu nodi iddynt ystyried gofynion, heb i hynny fod yn amlwg o ran y rhesymeg y penderfyniad. Mae hyn yn gallu arwain at heriau cyfreithiol megis o dan ddeddfwriaeth tai.

Mi ddylai fod yn orfodol pwysu a mesur datblygiadau yn erbyn egwyddorion craidd datblygu cynaliadwy. Y broblem, neu un ohonynt, ydi sut mae gwneud unrhyw system newydd yn wahanol i'r ffordd mae adrannau/cynghorau ac yn y blaen yn 'cyfiawnhau' penderfyniadau gwael ar hyn o bryd. Bydd angen corff trawsffiniol a thraws ddisgyblaethol efo gweledigaeth glir a byddai rhaid i Lywodraeth Cymru osod y cywair er enghraifft trwy weithredu'n gorfforaethol ar gynaliadwyedd a datblygu diwylliant gweithredol newydd.

Cw.18 Faint o amser y dylid ei roi i sefydliadau wneud y newidiadau hyn?

Cwestiwn ynghylch rhoi cyfarwyddyd

Cw.19 A fyddai'n ddefnyddiol cyhoeddi canllawiau ffurfiol i sefydliadau y mae'r ddyletswydd newydd yn berthnasol iddyn nhw?

Mae canllawiau yn aml yn chwarae rhan bwysig mewn esbonio a dehongli deddfwriaeth. Mi fydd angen i'r canllawiau yma fod yn glir iawn. Bydd angen i'r Bil ei hun fod yn gadarn yn y lle cyntaf neu fel arall bydd unrhyw ganllawiau yn llai defnyddiol. Credwn y byddai canllawiau statudol yn well gan nad oes llawer o ddiben i ganllawiau nad oes rhaid i gyrff cyhoeddus gydymffurfio â hwy.

Cw.20 A ddylai unrhyw gyfarwyddyd o'r fath gael ei gyhoeddi gan Lywodraeth Cymru neu'r corff datblygu cynaliadwy newydd?

Fel mater o egwyddor, byddai'n well gweld corff datblygu cynaliadwy yn delio ag unrhyw gyfarwyddiadau neu ganllawiau yn hytrach na'r Llywodraeth. Gan fod awgrym y dylai'r

Llywodraeth fod o dan ddyletswydd statudol, ni fyddai'n briodol iddynt lunio canllawiau neu gyfarwyddiadau.

Cw.21 A oes unrhyw ddyletswyddau statudol penodol y byddai'n briodol eu diddymu, yng ngoleuni'r dull gweithredu rydyn ni'n ei gynnig o dan y Bil Datblygu Cynaliadwy?

Cw.22 A oes rhwystrau cyfreithiol rhag darparu'n unol â'r ffactorau datblygu cynaliadwy rydyn ni wedi'u hamlinellu y gallai'r Bil Datblygu Cynaliadwy gael gwared arnyn nhw?

Cw.23 A ddylai fod yn ofynnol i sefydliadau gyflwyno adroddiad ar gydymffurfio â'r ddyletswydd drwy'r trefniadau adroddiad blynyddol presennol?

Nid oes sylwadau gennym

Cw.24 A oes sefydliadau ar y rhestr hon na ddylai'r ddyletswydd fod yn berthnasol iddyn nhw? Esboniwch.

Nac oes

Cw.25 A oes sefydliadau nad ydynt ar y rhestr hon y dylai'r ddyletswydd fod yn berthnasol iddyn nhw? Esboniwch.

Nid yw'n amlwg pam nad yw'r rhestr yn cynnwys y sector preifat gan fod y sefydliadau hynny yn gallu cael effaith mawr ar fywydau pobl. Mae hyn eto yn dangos gwendid dilyn y trywydd dyletswydd yn hytrach na hawliau amgylcheddol, cymdeithasol ac ieithyddol dinasyddion a chymunedau gan fod hawliau cyffredinol yn berthnasol i ymddygiad bob corff boed yn sector cyhoeddus, preifat neu drydedd sector.

Cw.26 A oes manteision neu anfanteision eraill ynghlwm â diffinio "datblygu cynaliadwy", ac os felly beth ydyn nhw?

Credwn fod diffinio "datblygu cynaliadwy" yn angenrheidiol: hynny ydi gosod allan egwyddorion craidd datblygu cynaliadwy – amgylcheddol, cymdeithasol, economaidd a diwylliannol. Fel y dywed adroddiad Bruntland: *"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs."*

Cw.27 Pe byddem yn diffinio "datblygu cynaliadwy", ydych chi'n meddwl y byddai'r diffiniad yn addas, a pham?

Nac ydyn, credwn ei fod yn hanfodol cynnwys lles y Gymraeg fel rhan o'r diffiniad.

Cw.29 Oes gennych chi farn ar sut dylai prif swyddogaethau'r corff newydd weithredu?

Ni chredwn fod y modelau a amlinellwyd yn sicrhau y bydd cyrff a fyddai'n dod o dan y ddyletswydd arfaethedig yn cydymffurfio ag ef. Nid oes pwrpas mewn dyletswydd heb ganlyniadau pe ceir ei dorri, felly credwn y dylid rhoi grymoedd eang i'r corff newydd i sicrhau cydymffurfio.

Credwn y byddai'n angenrheidiol i'r corff ymateb i gwynion gan y cyhoedd ac i herio'r corff am beidio delio â'u cwynion.

Cw.30 Ydych chi'n credu y dylai unrhyw gorff gael ei sefydlu'n statudol?

Ydyn

Cw.31 Ydych chi'n cytuno â'r swyddogaethau arfaethedig i sefydlu corff newydd yn statudol?

Cw. 32 A oes swyddogaethau eraill y dylid eu hystyried?

Credwn y dylid rhoi pwerau i'r corff gosbi a gorfodi sefydliadau i weithredu neu beidio â gweithredu mewn gwahanol ffyrdd, ac hefyd eu dirwyo. Mae angen cydbwysedd rhwng annogaeth a gorfodaeth, ond nid oes cynlluniau i sicrhau fod canlyniadau i gyrff sy'n dewis peidio cydymffurfio ag unrhyw ddyletswyddau. Byddai gwendid o'r fath yn colli cyfle mawr i newid ymddygiad.

Mater i'r corff datblygu cynaliadwy yn bennaf fyddai sut a phryd i ddefnyddio'r pwerau eang hyn. Ond credwn y dylai fod mecanwaith sydd yn galluogi pobl a chymunedau i herio penderfyniadau'r corff ac i geisio cywiro diffyg neu orfodi penderfyniad sydd yn fwy hygyrch nag adolygiad barnwrol.

Credwn y dylid rhoi'r Gymraeg yn rhan ganolog o rôl y corff, ac y dylai bod yn rhugl yn y Gymraeg fod yn hanfodol i'r rhai sy'n gweithio iddo, fel ei fod yn arwain y ffordd i gryff eraill o ran cryfhau'r Gymraeg.

Cw.33 Oes gennych chi farn benodol ar annibyniaeth y corff newydd?

Cw.34 Oes gennych chi farn benodol am y trefniadau atebolrwydd ar gyfer y corff newydd?

Dylai'r Cynulliad Cenedlaethol, yn hytrach na Gweinidogion y Llywodraeth, benodi aelodau'r corff newydd. Hefyd, dylai fod gan y corff newydd llif arian annibynnol o'r Llywodraeth, gellid edrych ar sut yr ariennir Archwilydd Cyhoeddus Cymru yn hynny o beth.

Consultation Document

Proposals for a Sustainable Development Bill

Date of issue: May 2012

List of consultation questions Promoting sustainable development

- Response of Cardiff and Vale Parents Federation – “ Supporting children and adults with a learning disability”

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

As a publicly-funded body that relies on being successful for bids for services within the Local Government sector, our principal concern is always how to maintain our services to vulnerable persons within our available budget. Therefore sustainable long-term strategic direction is often difficult to balance with short-term financial realities.

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

Fairer more transparent decisions on funding, which allow smaller organisations such as ours (we support 800 families in Cardiff and Vale of Glamorgan) to compete with larger organisations when competing to provide public or lottery-funded services.

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?

Not sure that there is a plethora of evidence that the importance of sustainable development has been embedded in the public and/or the private sector. How many promotion examinations in the public sector refer to sustainable development, while nearly all are affected markedly by questions on Equality and Diversity. Sustainable Development needs to be highlighted for its importance to this and future generations and the public sector in particular can contribute to this if Welsh Government take the lead.

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?

Yes, the duty should apply at high-level decision making and strategy, but the principle of SD and the understanding of the whole issue needs to be embedded at all levels of the organisation.

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?

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

Promotion and internal advancement should include tests of knowledge in this area, so that all levels are exposed to the ideas and understanding of SD

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

Yes, when drawing up budget proposals the impact of consideration of SD and the impact caused by SD being incorporated into the proposals should be clearly shown.

The behaviours approach

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

Yes, the list of behaviours seems appropriate and accurate. Working partnership would seem to be essential.

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

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

This would serve as Guidance and enable those responsible to use as a Tool for reference

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 influence should be strong, in that the decision s reached should be consistent with all of the behaviors

The objectives approach

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

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

Clear, unambiguous guidance for decision-makers

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?

If we are really seeking to put sustainable development at the heart of all strategic community decisions then the decision reached should not detract from any of the objectives.

The combined approach

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

Short-term disadvantage is the problems faced embedding these behaviours and objectives into decision making at strategic level. Long-term advantages is that decisions taken will be based on a set of behaviours and objectives designed to promote and realise sustainable development for the community.

A single sustainable development proposition

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

Too wooly and vague, easy to state compliance without demonstrating any evidence

The time organisations may need to comply

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

Most Business Plans don't look further forward than 3-5 years because of the volatile nature of economies and politics. Therefore 3 years would seem reasonable.

The provision of guidance

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?

More credibility and weight coming from WG

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?

Yes

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?

Yes, social well-being encompasses the aspirations for the Welsh people

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?

To scrutinise, investigate, advise and issue guidance

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?

One of scrutiny and examination by the AGW would be appropriate, providing a level of challenge where appropriate

A statutory body

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

No

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?

Yes, the 4 other possible functions listed would be reasonable

Independence and accountability

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

An independent body would be preferable

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

Every publicly funded body must report and be accountable to the taxpayer....therefore it should be accountable to the National Assembly.

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

Post

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

Additional information

If you have any queries on this consultation, please telephone:

Hello SD Team,

I would like to support the bill for SD.

I believe that rural communities, Welsh language and culture should be pro-actively considered for sustainable development and should be prioritised for support. Communities such as these are fighting a rear guard action if not prioritised for sustainable development.

I hope you can add my comment to your consultation even though I'm a day late.

Yours

Arfon

Arfon Hughes

Hwylusydd Tai Gwledig Gwynedd
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Ty Abermawddach

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Gwefan Hwyluswyr Tai Gwledig Cymru:

Wales Rural Housing Enablers Website:

www.rhewales.co.uk

Eisiau prynu cartref yng Ngwynedd ond methu fforddio un? Ewch i:

Want to buy a home in Gwynedd but can't afford one? Go to:

www.taiteg.org.uk

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Comments by Gwynedd Environment Partnership on
consultation on proposals for the Sustainable Development Bill

1. The main barriers to making long term co-ordinated decisions would be financing each year instead of long term financing, and cuts in the finance that is available. The lack of commitment by some organisations is also a barrier.
2. Ensure that budgets on a long-term basis are available and ensure commitment by organisations.
3. A greater number of officials in the field of climate change/carbon reduction are to be seen these days in public bodies and more attention is given to this field's agenda. It seems that many are operating also as a result of the financial savings involved with reducing carbon emissions.
4. A commitment should be ensured at the highest level within organisations and ensure that the message is streamed throughout the organisation. The importance of relating sustainable development to all work areas and duties within the organisation should also be emphasised.
- 5.
6. Financial details should be included.
7. Examples of internal good practice should be included which could be adapted and used for organisations.
8. It should. Information about the financial savings involved could have a strong effect on behaviour.
9. Working in partnership across organisational boundaries is imperative in order to share good practice, expertise and resources. Concentrating on prevention is also imperative to save costs and prevent long term effects.
- 10.
11. It can lead to differing results as each organisation is likely to be different – it would also be difficult to measure the emissions of organisations against each other because of this.
- 12.

13.

Culture and the Welsh language

The public services that are available locally for people

14.

The objectives can be incorporated into all the activities and duties within the organisation

15.

16. Objectives would set a precedent and a structure to sustainable development duties and behaviours, allowing flexibility to the needs of organisations.

17.

18. Sufficient time and resources should be provided to make the changes. A year would probably be sufficient.

19. Yes.

20. Welsh Government.

21. Would need to assess which duties are in place already in order to avoid duplication of work, and recognise where gaps exist.

22. European procurement rules.

23. Including a report in reports that are currently prepared would reduce the workload and would be an effective way of giving feedback. Evidence should be included as part of the reports measuring efficiency.

24. No.

25. Housing Associations.

26-27. Providing a definition of 'sustainable development' would ensure clarity and consistency, but it should be guaranteed that it would be possible to apply the definition to any kind of organisation.

28.-34. The purpose of the new body should be to lead and support organisations to incorporate sustainable development into their procedures. Presence should be throughout Wales in order to provide sufficient support.

18 July 2012

WELSH GOVERNMENT PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL

TCPA Response

1. About the TCPA

Founded in 1899, the Town and Country Planning Association (TCPA) is the UK's oldest independent charity focused on planning and sustainable development. Through our work over the last century we have improved both the art and science of planning in the UK and abroad. The TCPA puts social justice and the environment at the heart of policy debate and seeks to inspire Government, industry and campaigners to take a fresh perspective on major issues, including planning policy, housing, regeneration and climate change. Our objectives are to:

Secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country

Empower people and communities to influence decisions that affect them

Improve the planning system in accordance with the principles of sustainable development

2. Background to the consultation

The 'Sustainable Development Bill: helping shape a better future for Wales' consultation document seeks views on the Welsh Government's proposals for a Sustainable Development Bill, intended to develop and strengthen their approach to sustainable development. This consultation will inform the development of detailed proposals that will be included in a White Paper consultation on the Sustainable Development Bill. This second consultation is planned to be launched in Autumn 2012. The consultation document is linked to the Welsh Government's commitment to making sustainable development the central organising principle of the Government and public bodies in Wales and creating an independent sustainable development body.

3. The TCPA response to the consultation

The TCPA welcomes the opportunity to submit comments to the consultation. As the first piece of primary legislation dedicated to sustainable development in the UK, the TCPA emphasises the importance of leadership from the Welsh Government in ensuring deliverability of sustainable development principles. This submission is informed by practitioner feedback and comments from a TCPA policy roundtable on the 4 July in Cardiff, chaired by TCPA Wales Representative, Kay Powell. A copy of the summary of discussions will be attached to the submission as an annex.

Promoting sustainable development (s3)

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?

The TCPA supports the proposal in the consultation document for a statutory requirement for all those delivering public services in Wales (not just public sector bodies) to use SD as their organising principle. Whilst there is no need to include the Welsh Government as this

is already covered by legislation relating to the National Assembly for Wales, it would be an important signal to do so.

New sustainable development duty (s6) Level of decision making to which duty applies

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

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?

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

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

The TCPA considers that if SD is a central organising principle of an organisation, it must follow that all its decisions at corporate level affecting the way organisations conduct their business, organise their services, manage their assets, and set their budgets, should be subject to the duty. This would save the Welsh Government the impossible task of defining those policies and decisions that fall within the duty and those that are not required to.

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.

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 - eg 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 TCPA considers that behaviours are crucial to achieving SD, and should therefore form a major part of the approach. It should be possible within a year or so of commencement to identify that some decisions have been taken in a different way because of the SD duty.

The objectives approach

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

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 - eg 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 TCPA recognises that setting appropriate objectives to achieve sustainable outcomes is important for all those delivering public services, and should therefore form at least part of the approach. However there could be a long time-lag before monitoring shows the achievement of more sustainable outcomes.

The combined approach

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

TCPA considers that a key advantage of the combined approach is that it acknowledges that changed behaviour AND objectives are vital (one following from the other). The disadvantage is that the combined approach could be perceived to require more monitoring and scrutiny - hence the main challenge is to make the approach the norm, with bureaucracy kept as simple and non-onerous as possible to reflect the fact that it is the new "business as usual".

A single sustainable development proposition

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

TCPA considers that simplicity and consistency are vital, so that the new duty is seen to flow naturally out of existing commitments and good practice across Wales and that this is just to raise the bar for everyone in public service. It will be important to remain consistent with the 5 principles in the 2005 UK Strategy and with the current SD Scheme - basing the SD duty on behaviours would do this.

The time organisations may need to comply

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

TCPA considers that there should be evidence of acknowledgement of the need to change from within 1 year of the legislation, and changes being made to processes, policies and budget allocations within 2 years. Early starters should be rewarded with additional resources (not ring-fenced), and those slow to take up the new approach given ring-fenced resources targeted at making appropriate 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 TCPA considers it important for the Bill to be drafted in plain English/Welsh without excessive legal language, and with clear accompanying explanatory text. Early issue of guidance by the Welsh Government on priorities for action in terms of the likely scale of impact would be extremely helpful, otherwise there should be no need for extensive guidance other than that produced in the course of normal updating of existing guidance. Of course, much will depend on the starting point for each organisation.

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?

TCPA supports the principle of consolidation in this area.

Reporting

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

Yes, providing that at least some reporting is to a common format which highlights which decisions have been taken in a different way and/or with a different outcome because of the new duty. The issue of Welsh Government guidelines on the minimum requirements would be helpful. Monitoring and reporting arrangements should be relevant and proportionate eg they should be less onerous for town and community councils than county councils.

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?

No.

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

Organisations that deliver public services (not necessarily in the public sector).

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?

The TCPA considers that it is important to use the existing definition from the Scheme and to avoid confusion by emphasising that this is broadly consistent with the Brundtland and UK SD Scheme definitions.

An independent sustainable development body (s7)

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

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

TCPA considers it important the new body does not duplicate the work of any other body. Specifically that means it should not duplicate the role of Assembly Scrutiny Committees, the Auditor General, Single Environment Body, or any other NGO funded by the Welsh Government. Its purpose should be to offer practical support and expertise to those delivering public services in Wales.

A statutory body

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

Advantages are the recognition of the importance of the role and the need for visibility and transparency in its establishment and operations. Disadvantages include the costs associated with establishing a new body and a lack of control over its work.

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?

See Qu28 + 30

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?

The TCPA sees advantage in independence as it will be supporting delivery of the Welsh Government's legislation. In terms of accountability for its budget and effectiveness it would need to be accountable to the National Assembly for Wales and Welsh Government and audited by the Auditor General for Wales.

For further information contact:

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SD Bill Team
Welsh Government
Cathays Park
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18th July 2012

Dear Sir/Madam

Re. Proposals for a Sustainable Development Bill

As a group representing the full breadth of the finance profession in Wales and beyond, we are pleased to have the opportunity to respond to the Welsh Government's consultation on the proposals for a Sustainable Development Bill (SD Bill) for Wales.

The accounting organisations which comprise A4SW have taken an exceptional view on the importance of these issues and have for the first time provided a joint response to a consultation

Background

The Accounting for Sustainability Wales Forum (A4SW) was launched in September 2010. A4SW comprises AAT, ACCA, CIPFA, CIMA and ICAEW¹, and is part of HRH The Prince of Wales's Accounting for Sustainability Project (A4S)². The purpose of A4SW is to provide an umbrella under which to encourage debate and activity surrounding sustainable development (SD) within the finance profession and business and to reinforce the vital part played by the profession in helping organisations to set and realise SD goals and contribute to the wider vision of a sustainable Wales.

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¹ AAT – Association of Accounting Technicians, ACCA – Association of Chartered Certified Accountants, CIPFA – Chartered Institute of Public Finance & Accountancy, CIMA – Chartered Institute of Management Accountants, ICAEW – Institute of Chartered Accountants in England and Wales

² A4S brings organisations together to develop practical tools that enable environmental and social performance to be better connected with strategy and financial performance, and thereby embedded into day-to-day operations and decision making.

Each of the organisations within the A4SW Forum are active members of A4S in their own right, and bring significant and wide-ranging global experience to the consultation process for the SD Bill for Wales

Overall Principles

A4SW is supportive of the Welsh Government's commitment to SD and we commend the Government for the approach it has adopted in promoting SD. We would also like to put on record our recognition and appreciation of the important role played by Peter Davies, Commissioner for Sustainable Futures in championing the agenda and engaging and challenging a range of organisations including the finance profession.

In light of the recent Rio +20 Summit and the global imperative expressed by the accountancy profession to take forward the SD agenda more vigorously, we feel that it is important that the Welsh Government seize the opportunity to take a lead in embedding sustainability within the public sector.

A4SW therefore supports the principle of an SD duty for the public sector in Wales and believes that the Bill should be ambitious in its aims. Some of the proposals within the consultation document would, in many ways, represent a major shift in organisational thinking and process across the public sector in Wales and we believe that establishing SD as the central organising principle for the public sector would represent a significant statement of intent.

The Nature of the Duty

While others, including the legal profession, are better qualified to comment on many of the proposals in Section 6 of the document, we have concerns over whether it is practical to use the type of objectives described here as the sustainable development factors required to demonstrate compliance with the duty in a way which is enforceable. In some instances (as the document recognises) such objectives may be mutually contradictory (for example, requiring all businesses to work bilingually in Welsh and English might help strengthen Wales' cultural legacy but would undoubtedly not be consistent with promoting the vibrancy of the economy).

We believe an approach which requires public bodies to show that they have respected sustainable development factors in terms of behaviours is probably a more viable one, although we recognise that this approach is also difficult to enforce.

More generally, we support the view that the duty should apply to higher level decisions.

Reach of the Proposals

We recognise that these proposals and the resultant draft Bill are primarily aimed at the Public Sector in Wales. However, as the consultation document recognises, there is a blurred line between the public sector and private sector enterprises in Wales in a number of areas.

We feel that there needs to be clarity as to what the eventual expectation of the private sector might be under the Bill, as the proposals are not clear as to what the extent of obligation would be.

Certainly, nothing should be enacted which discourages businesses from entering into supply agreements with the public sector. However, we do recognise the role of procurement in influencing positive behavioural change within business.

We feel therefore, that following the publishing of the draft document, the Welsh Government should look for specific engagement with the private sector on this issue to receive feedback and listen to and address any concerns or identify any opportunities.

Reporting

Ensuring appropriate reporting will be key to any assessment of the appropriateness and effectiveness of any organisational SD schemes which arise from the SD duty and indeed the overall approach to SD in Wales.

The consultation document makes little mention of the opportunity to implement a reporting framework which would allow for benchmarking, improvement and public assurance.

A4SW feels that the draft Bill when published should be clear and explicit about the expectation of organisations to report, as well as the format in which such reporting should be presented, albeit recognising the Welsh Government's wish not to impose a system of discrete SD reports on bodies which are subject to the SD duty.

In our public sector conference on reporting in December 2011, there was much discussion about what the most appropriate reporting framework might be. If the intention of any Bill is to embed sustainability and develop SD as the central organising principle, we feel that the Welsh Government should consider adopting integrated reporting for the public sector in Wales in line with the International Integrated Reporting Framework under development by the International Integrated Reporting Council (IIRC) and supported by A4S.

Such reporting ensures that sustainability is not seen as an addition to 'business as usual' or a subject in itself, but encourages organisations to see SD as central to their operations and challenges individuals at all levels to have awareness of and regard for sustainability. Developing a clear approach to integrated reporting in the public sector would be a statement on Wales' intention to become an international exemplar in SD.

We would also like to encourage the Welsh Government itself to commit to integrating sustainability into its own annual report, possibly drawing on work to be carried out by the proposed independent sustainable development body or through the Auditor General for Wales.

We would urge the Welsh Government to develop a dialogue with central and local government in this area as there is a need to ensure, where possible, 'joined up' conversations on the development of reporting frameworks.

In addition, there needs to be further conversation as to the extent of any reporting duty on private sector enterprises engaged in delivering public services or in supplying the public sector, and there we have some concern about what the burden might be on businesses. However, we recognise that ultimately, some mechanism may have to be developed which satisfies the SD duty of public sector organisations. We are happy to engage with the Government on what this might potentially be at a later date.

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Indeed, A4SW is willing to assist in leveraging global expertise in the development of a reporting approach in Wales.

Independent SD Body for Wales

A4SW supports the idea of an Independent Sustainable Development Body for Wales. Such a body should be responsible for advising and challenging public sector bodies across Wales. Effectively, we would see that the new body would set the standards for reporting against the SD duty.

In the same way as other regulatory agencies, such as the Health & Safety Executive, the Body could be a point of advice and guidance in the development of SD schemes and could serve as a communicator of best practice and provide a focal point for activity and consultation around SD.

However, we feel that such a body should also have a scrutiny role in assessing the effectiveness of SD schemes and that this role would be reflected in assessing the effectiveness of reporting by organisations and their drive to SD integration.

The body should have authority (where appropriate), credibility and primacy in the area of SD. This is necessary to ensure that it is not seen as a bureaucratic and ineffective 'add on'. It could also act as an international advocate for Wales' approach to SD and a credible communicator with the private sector and other UK regions on relevant matters.

There is also a case for the body to likewise scrutinise and comment on the Welsh Government's own performance on SD under the prescriptions laid out in the Government of Wales Act 2006 were this process to remain.

The proper auditing of activity against the SD duty is of paramount importance for public assurance. We agree therefore that the Auditor General for Wales would have a key role in providing this assurance and support the Welsh Government's suggestion that this would signal the importance of the duty to Leaders and Chief Executives.

However, we recognise that this activity needs further consideration given the passage of the consultation of the Welsh Government's Draft Public (Audit) Wales Bill.

Conclusion

A4SW appreciates the complexities and challenges associated with the development of the SD Bill for Wales. However, this is a key window for action and policy development which is unlikely to be repeated in the near future.

It is important therefore that, despite some of the challenges, the SD Bill should be ambitious and robust and serve as a clear indication of Wales' ambition to lead the way in embedding sustainable development. In our view, this should also be demonstrated by a requiring integrated reporting.

The Bill will likely challenge the thinking and activity of a range of disciplines across the public sector and beyond, none more so than accountancy.

However, we recognise our role, both as a Forum and as individual organisations, in providing support, guidance and learning in this area as well as our role in supporting the Welsh Government in the development of the Bill.

We are, of course, more than willing to clarify any of the points raised in this letter or to meet to discuss the issue further, and we look forward to seeing the detail of the draft Bill later in the year.

Yours faithfully

Ben Cottam – Head of ACCA Cymru/Wales

David Leron – Director, ICAEW Wales

Tom Kelman - Director of Finance and Corporate Resources, AAT

John Maddocks - Policy & Technical Manager: Sustainability & 3rd Sector, CIPFA

| Terrance Phillips – CIMA

SD Bill Team
Welsh Government
Cathays Park
Cardiff CF10 3NQ



16 July 2012

Dear Sirs,

Re: Proposals for a Sustainable Development Bill

The Law Society is the representative body of over 140,000 solicitors in England and Wales. The Society negotiates on behalf of the profession and lobbies regulators, governments and others. This consultation response has been prepared by members of the Law Society's Planning & Environmental Law Committee. The Committee comprises 20 practitioners expert in these areas of law from a cross section of the profession, both public and private sectors, and from across the UK nations.

We have confined our response to those questions and issues which have a specifically legal perspective.

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.

The consultation document indicates the preference for the duty to act in accordance with sustainable development to be applied to higher level decisions adopted by public organisations in relation to service delivery, resource allocation, service procurement, financial assistance provision and estate management. It provides as examples longer term strategies, annual plans and general or subject specific policies governing service delivery or the use of public money. We urge the Welsh Government to ensure that there is greater clarity in the proposed Sustainable Development Bill on the organisation level and the type of the decision making to which the duty will apply. Otherwise there is the distinct risk of frequent legal challenges on the basis of, for example, failure to deliver or withdrawal of a service being incompatible with sustainable development.

The behaviours approach

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

Trying to define sustainable development behaviours in primary legislation seems problematic. For example, how to define in legal terms "long-term thinking". A better approach might be to require the Minister to issue guidance on what constitutes sustainable development behaviour.

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?**

Whichever approach is adopted, it must be clearly spelt out in the legislation.

The objectives approach

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

Trying to prescribe sustainable objectives in primary legislation seems to run the risk of frequent legal challenges. For example, closure of a local library could be challenged as contrary to social justice and equality and to protecting the cultural legacy.

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?

Whichever approach is adopted, it must be clearly spelt out in the legislation.

The combined approach

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

For the reasons given in our responses to Questions 11 & 14 we fear this would be both complicated and susceptible to legal challenges.

A single sustainable development proposition

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

If a single sustainable development proposition is to be adopted along the lines of “the wellbeing of present and future generations should be enhanced”, there will need to be guidance to flesh out what this means in practice.

The provision of guidance

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

We consider this to be essential.

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

We would recommend that the guidance should be issued by the Welsh Government to reinforce its standing.

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?

The consultation document ascribes the duty to have regard to sustainable development overriding pre-eminence. It would therefore be sensible for all other statutory duties on public bodies with a view to repeal all that had been superseded by this new duty. Competing duties will only cause confusion and render bodies liable to legal challenge.

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 view the key legal barrier will be problems of lack of certainty and the scope that that will provide for legal challenges to the decisions of public bodies. The Bill must as far as possible provide certainty.

The organisations that might be subject to the duty

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

The obvious omission are the police service and HM Courts & Tribunals Service which have a significant impact on communities.

Defining sustainable development

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

We should welcome a clear definition of sustainable development to avoid uncertainty and the kind of confusion which arose in the debate on the National Planning Policy Framework in England. We would emphasise that whatever definition is adopted, it must be applied consistently across all Welsh legislation. Otherwise there will be legal challenges based on apparently different legal interpretations of what constitutes sustainable development.

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 in the consultation document is one that has become common usage in Wales and a consensus does seem to have arisen around that definition.

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 do not question the right of the Welsh Government to introduce a new body with responsibility for overseeing sustainable development. However we would question the wisdom at a time of restricted public funds and so soon after the Westminster Parliament decided to abolish the UK wide Sustainable Development Commission.

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?

If a new body is created, we would endorse paragraph 158 that its role should predominantly focus on providing expert advice and guidance in relation to sustainable development.

A statutory body

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

Statutory bodies have an inevitable tendency to grow in size and remit.

Proposed functions for the new body

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

We pose the question of whether a new public body is necessary to undertake these functions.

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

To be of any worth any new body will need sanction powers to enforce fulfilment of the sustainable development duty on public bodies.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S Durno', with a long horizontal flourish extending to the right.

Steven Durno

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19th July 2012.

Welsh Government Consultation on Proposals for a Sustainable Development Bill: Response from Cardiff University.

Introduction

Cardiff University welcomes the opportunity to respond to this Consultation Document on Proposals for a Sustainable Development Bill.

Cardiff University is a signatory of the Welsh Government Sustainable Development Charter, joining businesses and local authorities to make a landmark commitment to future proofing lives and communities across Wales. By signing up to the Sustainable Development Charter we have demonstrated our commitment to make sustainable development a central organising principle, and our commitment to help the Welsh Government deliver the One Wales; One Planet vision of a truly sustainable Wales.

At Cardiff University, we believe that, rather than doing the minimum in order to fulfil our obligations, sustainability must be 1) integral to the values of the University 2) embedded in all of our operations 3) valued by all our staff and students. Aligning our strategies and operations with the key sustainability principles of social justice and long-term environmental protection allows the University to maximise its contribution to an improving quality of life for our staff, students, and communities in Cardiff, Wales and internationally.

Promoting sustainable development

Commitment at the highest level is essential to getting buy in across the whole organisation. High level decisions and procedures are key to enabling the right outcomes at other levels of decision making.

Capacity within organisations can act as a barrier. Staff resource, to develop new, more sustainable systems and solutions on the ground is essential. It is vital to employ staff with knowledge of a wide range of environmental issues, an understanding of certified environmental management systems and current environmental legislation, as well as practical experience of awareness-raising.

Capital and recurrent investment, to enable implementation of more sustainable infrastructure, such as secondary glazing, PIR light management etc. Some of these will eventually recoup investment and may be tackled through interest-free loans, but some such as purchasing green electricity will simply cause an increase in recurrent costs for which we are not funded.

We would like the bill to place to a greater emphasis on the Education for Sustainable Development and Global Citizenship (ESDGC) agenda. Continued support for this area of work is vital to equip future generations with the knowledge and ability to engage in the sustainable development agenda both locally and globally. Key points on this, worth revisiting were made in SQW Consulting ESDGC: Analysis of Good Practice in HEI's (2009) report to HEFCW

Reporting

Reporting back will be fundamental in tracking how effectively the Duty has been implemented. We would see this as part of best practice and accountability.

The organisations that might be subject to the duty

We would welcome further information on the Welsh Government approach to deciding which bodies will be on the list to which the proposed new duty shall apply.

If the intention is to promote wellbeing and sustainability, the legislation should affect the widest constituency of organisations. As the proposals stand, public sector organisations could be unfairly disadvantaged compared to private sector competition, for example commercial research organisations.

In addition, rather than being seen as a barrier to investment by business, we would want to see the sustainable development duty promoted as a benefit. Wales can be at forefront of developing the skills and expertise in the field of sustainability.

An independent sustainable development body for Wales

Any new SD body should have a key role in education and could help coordinate and re-invigorate the Regional Centre of Expertise on ESDGC. Building on recommendations made in the SQW report to HEFCW, a new body could provide clarity and help to ensure there is consistency in the approach to SD across HEIs in Wales.

We hope that these comments are seen as useful in the next stage of development of a Sustainable Development Bill for Wales. Please contact us if you would like any further information or have any questions on any of the above. We look forward to engaging with the next step of the consultation, at this exciting time for sustainable development in Wales.

Yours sincerely,



Tim Wess Pro Vice Chancellor –Estates Cardiff University

Flintshire County Council

Sustainable Development Bill – Consultation Response

Promoting sustainable development (section 3)

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

- Silo working – entrenched patterns of working
- Competing timeframes for decision making across & between organisations
- Single issue / policy driven
- Culture of short term achievements / planning driven by low cost / no cost instead of invest to save
- Short term political focus
- Disregard for NON vote winning issues
- Tendency to avoid contentious issues

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

Welsh Government

- Drive and enforce legislation
- Funding requirements needs to reflect joined up / long term decision making which is evidence based
- Strategic Partnerships and LSBs required to drive the SD agenda
- Develop a simple integration tool (as guidance) for use across public bodies & strategic partnerships

WLGA

Ensure that elected member training is mandatory as part of the member development charter / programme – include SD

LA

- Nominated SD Champion - elected member
- That Senior Management Teams incorporate long term SD impact on decision making
- Leadership Team supported to apply SD principles
- Align existing legislation e.g Equality / Welsh language / Planning / and the development of LDPs
- Develop governance arrangements to support SD
- Ensuring Transparency and Openness about how decisions have been informed by SD including engagement with diverse communities & stakeholders

Wales Audit Office & other external regulators (Estyn / CSSIW)

To incorporate SD principles within their inspection regime & actively seek advice and identify good practice.

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 use or and the extent of which integration tools (to be simple and pragmatic) are used across public bodies. It is important that major interventions claiming to further SD are examined carefully to obtain reassurance that they will, in fact, deliver in the way intended.

A new sustainable development duty (section 6) The level of decision making 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.

As the consultation document identifies, one of the main challenges in decision-making is that it is often undertaken in a constrained manner; constrained by immediate time pressures, urgent issues, service demands or competition for scarce resources. The approach to sustainable development should not be about creating new action plans, policies or strategies; rather it should focus on creating the space within organisations at the leadership level to consider the wider picture during decision-making. It needs to be core business.

The growth of partnership working has only partly contributed to improvements in this approach. Whilst it is more likely that decisions within partner organisations will reflect shared needs and priorities due to better understanding of mutual agendas and the benefits of collaboration there remains further room for development. There is still a tendency to regard partnerships as new organisations with their own projects rather than them reflecting the shared will of the organisations involved.

Future approaches need to support and encourage organisations to consider their decision making in the widest possible light - what does this mean to agendas outside of my own? What impact might this have in 10 or 20 years time? What is the whole-life cost of these investments? Where can my increased costs bring a saving somewhere else in the public service family?

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

As indicated in the consultation document i.e. clinical judgements, Children's and Older People's Commissioners for Wales etc.

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?

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

It would be up to each organisation to determine which of their internal operations would be subject to the Bill.

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

Hypothecated funding if subject to the duty could be more efficiently administered by being part of the core RSG, thus minimising the requirement for administrative burdens (e.g. Families First funding). This could lead to an opportunity for efficiencies and allow monies to be more targeted at prevention.

The behaviours approach

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

Assessing legislative compliance on the basis of 'behaviours' (long term thinking, partnership approach etc) will be more practical than 'objectives' (e.g. well-being, economic vibrancy) where results will be seen only in the long term.

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

A 'behaviour' that should be added relates to respecting the principle of subsidiarity - whereby decisions are taken at the lowest possible level. This has implications for WG and LAs. WG needs to respect the LA as a sovereign body with its own democratic leadership and priorities, to take decisions they believe to be in the best interests of the sustainable development and resilience of their areas, *informed by* national strategies developed by WG.

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

We agree that the 'behaviour approach' would be most effective and appropriate mechanism for informing high level decisions. Other approaches could be too prescriptive.

A principle disadvantage would be the statement that 'if an organisation contravenes the duty, its decisions will be reviewable by the courts in the usual way.' This appears to be over-burdensome and needs to be re-phrased to reflect appropriate intervention.

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; Yes
- Broadly reflects the behaviours; could be subject to interpretation
- Is not inconsistent with the behaviours? No
- Are there other options? No

The objectives approach

Q.13 Are there core sustainable development objectives we have not identified above? No

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

Advantages - It provides a framework for an organisation to develop their approach.

Disadvantages – Depending upon how it is developed, it could be over prescriptive. There could be the potential to confuse objectives with factors.

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? As long as mitigating actions are put into place
- Are there other options?

More discussion is needed on this point as it could be interpreted in different ways and would only become clear with developing guidance.

The combined approach

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

Advantages:

Broad set of behaviours which could be linked to objectives

This is something that needs to be developed over time and perhaps piloted to understand the implications.

A single sustainable development proposition

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

This would be too broad on it's own; our preference is for a combined approach which is based on SD behaviours & objectives.

The time organisations may need to comply

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

Time frames

- lead in time 2 years for preparation prior to compliance.

The provision of guidance

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

YES, guidance & statutory codes of practice need to be available well in advance of the new duty coming into force. Quality guidance will be essential. Guidance should also evolve over time as lessons are learned and local government should be fully consulted.

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

If SD is to become the 'central organising principle' for public bodies in a meaningful way, the existence of an independent source of expertise on this subject will be necessary. We also recognise the risk of giving this role to a Single Body focused on environmental issues. A balance will need to be struck, though, between the body being too small to offer a service to all that need it and being so big that it absorbs resources that could be better spent on service delivery.

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?

Some over-burdensome regulation (e.g. CSSIW for Social Services) could be reduced to enable more resources to be targeted at preventative and front-line services.

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? YES – a phased approach should be taken and key indicators should be established to measure outcomes (or develop proxy measures for outcomes). Existing business planning arrangements of each organisation should be adapted/flexible enough to incorporate annual reporting. Needs to be built into the framework of the LSB through the single integrated plan and its 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. No

Q.25 Are there organisations that are not listed above but which should be subject to the duty? Please explain. Social landlords should be included, as they have taken over so much of LA stock and wider impact on communities.

In addition possibly the third sector through Community Voluntary Councils could be included.

Defining sustainable development

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

There’s a balance to be struck as defining sustainable development could be seen as over-prescriptive, but also needs to not be so broad that it could be mis-interpreted.

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

Guidance would be needed to support this definition ie. What exactly would be encompassed by ‘social justice’ and ‘use of fair share of resources’, ‘sustain cultural legacy’? Perhaps these could be over-riding principles with a simpler definition.

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?

Provide guidance and advice; be a supportive body. Providing long term trends – describing effects on services in making decisions, nationally and regionally. Work with organisations enabling SD decision making.

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?

The SD Body could have an important role in providing guidance to the Wales Audit Office to inform the way they undertake regulatory activity. This could go some way to meeting local authorities’ views that a measured and proportionate approach is needed and help to alleviate concerns that this will end up as an ‘add on’ to existing inspections, requiring further audit trails for every decision.

A statutory body

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

This would depend on the ‘powers’ it was given. It would enable a long term approach to be undertaken, establishing consistency of guidance and support.

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, based on the Expert Advice and Guidance model. The functions described in the other 2 models (Ombudsman and Scrutiny) could be provided in other ways (as described).

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

No, not considered at present, but may need to be reviewed.

Independence and accountability

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

Agree that the body needs to be independent with the accountability as described.

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

As above.

Policy Response



Proposals for a Sustainable Development Bill

A response from WCVA

July 2012

WCVA
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Wales Council for Voluntary Action

A response to the consultation on Proposals for a Sustainable Development Bill

Introduction to WCVA

Wales Council for Voluntary Action (WCVA) represents the interests of voluntary organisations, community groups and volunteers in Wales. It has over 3,400 organisations in direct membership and is in contact with many more through national and regional networks.

WCVA's mission is to make Wales a better place by championing the voluntary, community and citizen action at the heart of Wales' third sector, in order to increase economic, social and environmental participation, inclusion, equality, wellbeing and sustainable activity.

WCVA welcomes this pre-legislative consultation as we feel that it is important for the Welsh Government to gather and consider the views of as wide a range of stakeholders as possible on this important piece of legislation. The decision to undertake consultation on the proposals for the legislation is to be welcomed although it is regrettable that the standard 12 week consultation period was not offered on this occasion. We hope that this will not affect the capacity of organisations and groups to comment on the proposals and that the Welsh Government will continue to offer opportunities for stakeholders to feed in their views for as long as possible whilst the proposals are being developed.

We welcome the document's attempts to clearly set out and explain some potentially complex ideas and to clarify the Welsh Government's approach to promoting sustainable development. We recognise that the development of this legislation is both a challenge and a major opportunity for the Welsh Government to make a real difference to Wales' social, economic and environmental future. With the importance of maximizing this opportunity in mind we feel that this consultation is quite detailed and complicated and we are concerned that this may act as a barrier to engagement. In some places it is also perhaps a little too prescriptive and it seems to suggest that some of the key decisions may already have been made. We are hoping that the views from the third sector, for which there is a strong alliance of the key asks from this legislation are taken into account.

We would like to see a broad, wide-ranging and open conversation about what making sustainable development Wales' central organising principle could and should mean in practice in order to ensure that this opportunity to make a real difference is not missed. We are very pleased that this pre-legislative consultation stage is taking place but we do have some concerns that the timescales and structure of the document may serve to close down discussion rather than open it up.

It is vital that work is done to ensure non green third sector organisations are engaged in this agenda. They are key stakeholders in the success of the integration of sustainable development to mainstream thinking and delivery. For example the anti-poverty agenda, which is a key developing programme of work for the third sector and Welsh Government is a pillar of sustainable development so these programmes need to be linked more strongly. The same is also the case for the Co-production work programme.

WCVA held policy events in January 2012 and produced a Briefing Paper on the Sustainable Development Bill to support this engagement of the non green sector however

we have concerns about how many non green third sector organisations will actually respond to this consultation. We would like to work with WG and Cynnal to identify if any non green organisations have responded, identify gaps in responses and aim to fill these and explore how we can improve engagement on this agenda. One aspect on which WCVA could potentially support further engagement is on an Equality Impact Assessment of the Sustainable Development Bill consultation. Welsh Government has a legal duty under the Public Sector Equalities Duties to have undertaken an equality impact assessment on this consultation document. We assume this has not happened to date and would therefore encourage WG to undertake this work as soon as possible. WCVA would support WG to engage with the third sector on this process.

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

WCVA agrees with the consultation analysis of long termism outlined in sections 21 - 25 and Focusing on Prevention outlined in sections 32-34 as key aspects of sustainable development. Some barriers to this approach include:

- Visioning of the future. This is currently not normal practice for most and there is a lack of knowledge of key issues affecting our future such as resource scarcity and climate change. WCVA undertook events in conjunction with WG on Building Resilient Communities which included sessions on assessing long term impacts of climate change and developing adaptations. These workshops highlighted this knowledge gap but with support it is possible for third sector to integrate sustainable development issues into long term planning. There is currently no resource or support in Wales to take this work forward with the third sector.
- The Prevention agenda is key to long term decision making and is an area the third sector is very active in both in its promotion and through the delivery of services. However, it is not a mainstreamed approach across the public sector therefore making joint working on this agenda more difficult.
- Long established approaches to decision making are based on short term finances and politics rather than the long term, this needs to shift in order to be able to adopt an sustainable development approach.
- Events held in January 2012 on the Living Wales Framework identified that the third sector generally does not integrate natural capital into their assessment of value. One of the reasons for this is the third sector is lack of knowledge of the issues but also the language used in this area by Welsh Government is technical and not related to community resources or issues.
- Third sector is negatively affected by short term funding which hinders its desire and ability to delivery on a long term basis.
- The Bill needs to take into account other longer term planning e.g. the Social Services (Wales) Bill is a major piece of legislation that will need to stand for a long time.

An approach to public service delivery which embraces all the identified sustainable development behaviours is Co-production. This approach is recognised in the consultation p. 15 Hywel Dda example. WCVA would want to see the proposed legislation recognising and underpinning co-production as a means of achieving sustainable development.

Co-production's dynamic for our communities importantly creates a bigger 'cake' of resources and deploys, not just public sector staff and budgets, but also service users, families, neighbours, local third sector organisations and the wider community in a 'total service' which goes beyond traditional service provision and releases new resources, skills and energies. It means commissioned services and self-organised support complementing each other rather than operating in isolation.

Co-production recognises the *total value* of a service and benefits for the citizen (taking account of *all* resources deployed - employed staff time, user input, volunteer time, community support groups) against the public sector investment. The prize is to use our public funding in ways that lever in additional resources - to achieve better value for the citizen.

Co-production brings the co-design and co-delivery of public services, where activities and services are designed and delivered by a wide range of actors - bringing together the third sector and the public sector with the citizen and the community at the centre. It means investing in community capacity and initiative in order to provide mutual support that complements, and reduces demands on state services. The approach can involve:

- Citizen-directed support
- Service user led services
- Community led services
- Mixed volunteer and staffed services
- Integrated services.
- Citizen's voice and control is fundamental to this dynamic, with engagement and active participation in maintaining and enhancing wellbeing through communal mutuality which includes the state.

Statutory activity should include linking to local community action with 'home grown' solutions to barriers and WCVA would want to see community hubs included in this proposed legislation.

Healthier, safer, more economically prosperous communities are built when communities and their people are not the subject of the process but design the process themselves i.e. co-produce. Life changing development is most likely to happen when communities come together and tackle problems from the ground up, when their approach starts and ends with the needs of local people and when they have ownership-or at least involvement-in the process. Wales has a long tradition of community action which is the foundation of our vibrant third sector today and there are numerous examples of stronger and more resilient communities being built by community organisations themselves designing and delivering holistic public services that overcome barriers to wellbeing and generate additional wellbeing.

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

The financial benefits of long termism for example, cost/benefit analysis of the prevention approach within the public sector, need to be promoted and mainstreamed through the public sector. Examples of best practice, especially those which have third sector as key partners, should be promoted. Promotion of the co design approach to public service delivery is a way to achieve this.

The value of natural resources needs to be integrated into public sector and third sector as this is key barrier to the strong sustainability being understood and hence mainstreamed

into thinking. There is very little reference to this in the consultation which demonstrates the lack of join up on these two agendas which are inherently linked and essential to delivering strong sustainability.

A critical role for the new Sustainable Development Body will be to maintain a clear picture of these barriers, and to be monitoring effective action taken to reduce and remove them. There are currently pockets of innovation on future proofing which should be promoted and mainstreamed through Wales. This includes organisations in the third sector who have been supported through the Climate Change Leadership Group and the Building Resilient Communities events.

Funding to the third sector, which plays a key role in supporting sustainable development and communities, needs to be longer term rather than the current short term practice. We recommend that as detailed in the WG's Code of Practice for Funding the Third Sector, that longer term commitments, subject to performance to support a sustainable approach to funding: up to 5-7 years for strategic core funding and commitment for the life of any specific projects which are funded, providing firm year one funding and clear baselines for subsequent years.

The strong cost benefit evidence of prevention and early intervention needs to be emphasised and promoted amongst the public sector.

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 analysis in the consultation on of sustainable development as a Central Organising Principle is partial. It does not cover progress of local authorities who are key stakeholders in delivering outcomes. Nor does it explore sustainable development in the third sector, again a key stakeholder in delivery. The findings from the Welsh Audit Office reviews reinforce the arguments made in Section 5 about the need for a significantly stronger duty that exists now. However, as will outline in WCVA consultation response, the Welsh Government's preferred approach will not deliver on that need for a stronger duty.

Having sustainable development as a Central Organising Principle does not necessarily demonstrate the impact this has on outcomes. For this, there is no clear, understandable picture of progress. The current sustainable development indicators and those identified within PfG are not comprehensive and have partial data. In addition to this, these current indicators are very valid for the third sector as they are too high level therefore not directly related to delivery and data collection is difficult in some of the indicators.

There are very few third sector organisations signed up to the Sustainable Development Charter, especially non green organisations. This is for a number of reasons, including lack of clear understanding of what sustainable development is and how it is relevant to their work and lack of support to help third sector organisations to make the connects to sustainable development and the value this has to their current core activities. The Charter tends to be public sector orientated and there seem to be no immediate added value for the third sector to signing up.

There may be a lack of responses from non green organisations despite WCVA support and encouragement through the events in January, promotion through our networks and communication channels, work with the Climate Change Leadership Group and a briefing paper widely circulated through the sector. This could demonstrate the lack of progress in mainstreaming the agenda across the third sector when in fact, many are already

delivering it, just not aware of it. It may however also demonstrate lack of time of organisations to give to strategic policy involvements because they are so busy delivering on the ground. The issues will need to be investigated further post consultation and WCVA would like to support Welsh Government and Cynnal on this. The scale of mainstreaming required in the third sector needs more resourcing and this is best achieved via working in partnership.

Wales' progress on sustainable development needs to be judged against other countries, both UK and other sub national and regional governments, for example the NRG4. The Sustainable Development Commission should have this role.

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

WCVA disagrees that the duty should not apply to decisions at all levels.

We believe that sustainable development outcomes will only be delivered if sustainable development is the core function of all public service in Wales, and this is transparent and accountable . WCVA would challenge the logic outlined in paragraph 85. We do not believe that sufficient evidence is provided to support the assertion that sustainable development will filter down to all functions if included in high level decisions . It is our opinion that a duty that applies at different levels or in different ways to different decisions would not be sufficiently clear either to make sustainable development robustly the core function, or worse, risk it continuing to be seen as a competing priority rather than the means by which competing priorities are managed.

WCVA agrees that authorities should be allowed to exercise discretion and flexibility in their approaches to a sustainable development duty, to enable specific circumstances and characteristics to be taken into account and appropriate approaches and responses developed. However, this must be set within a consistent framework where the end goal (achieving sustainable development) and the key principles applied are the same so that there is clarity, certainty and common understanding on what collective action is trying to achieve.

There is no clarity on what a high level decision is in the consultation. If this is left to interpretation by public authorities this will lead to confusion, lack of transparency and issues with enforcement. WCVA believes this will lead to business as usual, but with some justifications added on, based on the decision makers own interpretation of what sustainable development means and what they should be setting out to achieve. This will not lead to a strong sustainable development duty which in turn will not deliver sustainable development.

We do not believe that to have duties applied to more than high-level decisions has the negative consequences set out in the consultation such as “stifling innovation”, “placing unreasonable expectations” on decision makers and “discourages unhealthy risk taking”. This negative language is a potential bias in the consultation as it does appear to evidence based. WCVA recognises that there can be various forms of sustainable development duties that can apply to different levels of decisions to ensure that the duty is appropriate for the specific type of decision. Consideration may need to be given to the nature of the decision being made, the type of actions that could be taken to ensure that sustainable development is properly factored into that decision and how that could be translated into a positive duty or obligation. It should be ‘proportionate’ responses for level of decision-making which allows some flexibility.

The Public Sector Equalities Duties should be a key example of how a strong duty is approached and implemented. Welsh Government has raised some concerns about this method as it leads to tick box, burdensome approach which does not lead to culture change. This view raises concerns amongst the third sector who fought hard to achieve duties which are strong and which we believe will deliver equalities outcomes. Practitioners in equalities in the public sector and third sector who are key to delivery and accountability pressed for a process which is transparent, accountable and enforceable as they recognised through years of experience, this a key component in enabling change. Whilst it may be viewed as 'burdensome' by some local authorities, these tend to be the ones who do not embrace innovation and change and do not hold values at the core of their duty to the communities they serve. You cannot expect SUSTAINABLE DEVELOPMENT to be implemented without a shift in current culture, which may feel 'burdensome' to those who do not understand the benefits and/ or where change management is not properly supported.

It is for this reason that strong duties are as necessary to start the process of mainstreaming equalities into everyday decisions to achieve outcomes. There may be so at some point in the future when the cultural change is thoroughly embedded at the core and across the public sector. In the short term however there will remain a need to be clear on how a change in practice is being pursued and to monitor and report on progress. It may therefore be that in 5-10 years, the recommendation from the independent audit is that prescriptive specific duties are no longer required.

More consideration needs to be given to sustainable development and equalities duties interact and are aligned. It is burdensome for public sector if there are more duties imposed on the without due consideration to existing duties. It is concerning that conversations have not been had with EHRC on the Sustainable Development Bill prior to the consultation to inform Welsh Government thinking.

This conflict in approaches show that at the heart of developing this Bill, the tension as to how sustainable development is actually achieved is far from resolved. This requires serious exploration and development of an evidence base of the most effective way to achieve sustainable development through organisational processes. Looking at the application of existing duties in Wales duties such Equalities Duties and Welsh Language is key to this as is how it has been achieved in other nations.

The draft proposal is focused entirely on statutory duties and audit i.e. mechanistic, which is important but not stand alone and needs to consider how this legislative opportunity could be much more ground breaking and enabling for Wales. We don't know yet what the Social Services legislation will be but it has so far enabled some more challenging, radical thinking and discussion. This as well as the Equalities Duties demonstrates more cutting edge thinking on what legislation can be used to achieve which the Sustainable Development Bill should at least be aligned with. Further work on linking these legislations needs to be done.

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

That there are some decisions that would be repealed by the sustainable development duty seems to offer a get out clause. The more 'wiggle room', the harder it is for the duty to be transparent and accountable. WCVA is concerned at the language used in paragraph 87 to justify some exceptions to the scope of the Bill. The idea that independence of mind would be disturbed seems to encapsulate some unjustifiable fears and misunderstandings

about the meaning of the term. It is especially so when social justice issues are used. This flags concerns over the understanding of sustainable development within this approach.

Section 6: point 85 on 'higher level decisions'. The approach that only the statutory bodies can make these decisions needs to be challenged as there is no evident citizen voice or participation here. Citizen voice and engagement in decision making is a key programme in WG e.g. In Social Services the Deputy Minister is now setting up a Citizens Panel. There are the National Principles for Public Engagement in Wales, endorsed by the First Minister on behalf of the Welsh Government and Participation Cymru are working with a range of statutory partners to embed and grow good practice. It is therefore essential that any legislation on sustainable development has the fundamental starting point of citizen voice and engagement and is not 'top down' and for the public sector only, otherwise it is not only out of line with other Welsh Government approaches but will also fail in not being publically 'owned'.

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?

By reference to Question 4 above, decisions not captured by the proposals are many of the most important ones, sitting below those proposed.

The duty under the draft Bill should be applied to all decisions of all public bodies, this includes grants and procurement which currently are not identified under the WG proposals. We consider it essential that all Welsh public bodies should consider how public services, goods, and works contracts contribute to environmental, social and economic wellbeing.

WCVA supports the use of grants as the preferred mechanism for funding the third sector, rather than concluding contracts through procurement. Grants offer greater flexibility, more opportunities for dialogue, and less bureaucratic processes than procurement. In the context of sustainable development, there is far greater scope to advance social, environmental and economic objectives through grant funding than through procurement, where certain restrictions apply.

Where procurement is legally necessary however, 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.

In this time of decreasing public spending, it is becoming more important that every pound of public money spent in Wales is used to maximum effect. The Welsh public sector spends around £4.3bn a year on external services, goods and works. 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.

If Community Benefits were legally mandated, it would place sustainable development at the heart of purchasing and ensure that the considerable investment made by Welsh public bodies went even further to improve communities and the environment in Wales.

The consultation document suggests that introducing additional requirements into procurement is problematic (p.31 point 83). Whilst community benefits or social clauses have to operate within procurement law, and they must have relevance to the subject

matter of the contract, the proposal is that procurement exercises have *due consideration* of the potential social, economic and environmental benefits. The increasing number of examples and the existing initiatives demonstrate the extent that such considerations can be included in procurement exercises. Organisations are not excluding from tendering for contracts with Community Benefits, but must demonstrate how they will address the contract requirements.

Precedents in this area have been set by the Public Services (Social Value) Act 2012 and the specific duties on procurement set out in the Equality Act 2010. A recent European Court ruling confirmed the ability to include Fair Trade criteria in public procurement. Therefore the inclusion of Fair Trade in public sector tenders would be a sustainable approach to duty and delivery, would remove any barriers that may exist and/or arise and would provide opportunities for promoting good practice. Furthermore, it is worth noting that proposals to be submitted to the European Parliament suggest changes that would bring further scope for the inclusion of environmental and social considerations as bases for contract award decisions. See Annex 1 for full WCVA position on Sustainable Development and Procurement

With Welsh Government's approach would sustainable development apply to areas which impact more directly on communities such as Community Strategy, the LSB priorities? It is not clear whether these would be considered a high level strategy. It is essential that these strategies have sustainable development integrated into them as they are key to delivery at a community level.

It is essential for budget proposals to be subject to the duty. Funding is a huge driver of behaviour change and resource allocation and a direct consequence of bringing budgeting under the duty will be to ensure that all those seeking funding will take sustainable development sufficiently into account in their proposals. In addition, the budget is what drives large infrastructure decisions, which will themselves be subject to the duty. It is therefore vitally important that the budget and the duty are inextricably linked.

The Wales Audit Office report in 2010, one of the criticisms was about the lack of embedding of sustainable development principles in operational decisions. "However, sustainable development is not driving resource allocation nor is it integrated into all financial and business planning processes. The Assembly Government has not ensured that all its grant giving underpins its vision of a sustainable future. "One of its main recommendations is "Embed sustainable development in the Assembly Government's governance procedures, financial planning, core business planning processes, change programmes and human resources processes." it also recommends "Ensure that all Assembly grant aid supports and promotes sustainable development by: setting terms and conditions that support sustainable development for all grants;" These recommendations seem to be ignored by the current proposals. The Audit showed that it was not the case that setting high level strategies ensured that decisions were made in accordance with these.

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

See response to question 6.

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.

The behaviours outlined on p.33 may be behaviours which are needed when making decisions which will contribute to sustainable development. However, they do not, in themselves, ensure that sustainable development outcomes will be achieved. For a start they are behaviours which we would argue are not specifically or truly sustainable development behaviours, rather generic good governance practice for decision making. They are behaviours which are already encouraged through a number of Welsh initiatives and programmes. In the third sector, these behaviours tend to be mainstreamed already and we are promoting these through our work with other sectors. For example Co Design; Prevention, working across boundaries, engagement.

As they are currently set out the behaviours are not consistent with the UK Sustainable Development Principles as suggested in the consultation the latter are explicitly about achieving sustainable development. This is where we should be heading not generic good governance behaviours. They are also not consistent with the One Wales; One Planet principles as suggested in the Welsh Government consultation. One Wales; One Planet principles are much more in line with internationally recognised principles necessary for sustainable development. For example, the precautionary principle, polluter pays. To suggest they are is misleading. All experts and evidence on sustainable development governance states the necessity of these principles to delivery of sustainable development. If Welsh Government is serious about delivering sustainable development it will need to explicitly include these principles into its behaviours approach.

The lack of detail in the proposed behaviours would leave too much room for interpretation for public bodies which is likely to lead to business as usual and sustainable development not being achieved. For example:

- Long termism which is of course critical to sustainable development is missing crucial sustainable development principle here about the interest of future generations and operating in a way which does not negatively impact their ability to meet their needs. Just thinking long term will not achieve this. As currently identified does not make any reference to sustainable resource use, rather just cost effectiveness. This would lead to a process of decision making which is just business as usual and would not lead to the step change we need to achieve sustainable development. This reflects a wider concern that WCVA has that the focus is on wellbeing rather than sustainable development overall. As mentioned above, this could be interpreted as placing priority on the social element of sustainable development rather than a truly integrated approach and strong sustainability where a healthy environment is seen as necessary for the economy and society.
- In the Social Services (Wales) Bill WCVA recommended a corresponding duty WCVA asks that the Bill includes a duty on local authorities and the NHS to:
 - recognise and engage with the third sector's mandated representation
 - co-produce services with the third sector as signatories,
 - adhere to local compacts.

If the Bill want to achieve long termism, engagement and the prevention then third sector needs to be a key partner. WCVA strongly suggest that the legislation includes this duty as well.

- Concern that the behaviour that relates to engagement and involvement is not all encompassing of the types of behaviour that would be needed. We feel that this should also include measures for transparency, accessible and fully accountable decision making, participatory democracy, devolution and empowerment of local communities to make their own decisions. It should also include reference to the Participation Cymru's National Principles for Public Engagement in Wales, which have been endorsed by a large number of public sector, including Welsh Government.

The consultation makes no distinction between the degree to which a balance needs to be found between these behaviours, if any may be favoured depending on circumstances, or the degree to which they must be exhibited in order to demonstrate compliance. For example, rationalising long-term decision making versus involving affected stakeholders is difficult, as with sufficiently long time horizons too many stakeholders would likely be affected to meaningfully engage with them all.

WCVA believes that this behaviours approach represents a watering down of the principles that are essential for delivery of sustainable development. These were recognised in One Wales; One Planet and to not recognise them in this consultation raises questions about a shift in Welsh Government's vision of sustainable development at best weak sustainable development.

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

The clear disadvantage to a behaviours based approach is that they do not legislate for a clear outcome, and it is virtually impossible to show whether they have been used to reach the most sustainable outcome possible, or simply to reach a partly sustainable outcome. The behaviours as set out cover broad, generic ways of working that the public sector should be doing already. This legislation should be stronger than simply bringing all players up to the level that they should currently be at. The only behaviour which is closer to sustainable development principles is on long term thinking, which is very welcome. However, it is not accompanied by an equally strong emphasis recognising that there are environmental limits, which humanity must operate within in order to have a safe and healthy future. This is despite the fact that this has been fundamental to what sustainable development means since Brundtland and is fundamental to the Rio declaration of which UK government is a signatory. Given that this is an area where decision making has been a failure thus far, its omission from this section is very surprising and leads to questions about Welsh Government's commitment to sustainable development.

The behaviours as laid out in the consultation risk promoting weak sustainability outcomes, as they do not have any clear limits on resource use or environmental degradation - stand alone WCVA does not think that these behaviours are a good approach to legislation. If behaviours are taken by Welsh Government to be the preferred approach for legislation, we believe that they need to be much clearer, more prescriptive as to minimum levels of standards to trigger compliance, and to set out clear limits to ensure strong sustainability outcomes are achieved.

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?**

These questions effectively represent the weakness of this approach. It is extremely complex to design and explain how SUSTAINABLE DEVELOPMENT behaviours must influence decisions and how these can be enforceable. It is likely to be very difficult in

practice either to clearly secure compliance, or to challenge bad practice, due to the difficulty of showing the reason, intent or outcome of actions and how they relate to these behaviours (for example, this parallels the *mens rea* concept of criminal law, and the difficulty of having to demonstrate this to secure conviction.) The behaviours alone are unlikely to secure good sustainable outcomes unless undertaken with the right intent, and legislating for intent is clearly impossible. A serious risk therefore remains around this approach.

For these behaviours to be meaningful as legal concepts, and tools for organisations to use to improve their governance and decision making, the behaviours need to be reflected in measures of national progress. If this approach is followed, it would be necessary for all organisations subject to the duty to show how these behaviours were used and influenced decisions, to report these individually (and jointly across boundaries where decisions and actions were taken in that way), to contribute to a national aggregate picture of how these behaviours are delivering sustainability in reality. WCVA does not believe that they are measurable to a sufficiently precise or standardised way to make this reporting meaningful, and poor reporting risks entirely undermining the principle of legislation

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

WCVA has concerns with the objectives is the framework within which they fit, and how they have been derived. Many equivalent models and frameworks have been developed which set objectives of this nature with a clear and rigorous evidence base behind them - for example the concepts of 9 planetary boundaries, the 10 One Planet Living principles, the 16 sustainable development principles in the Quebec Sustainable Development Act, etc.

WCVA has concerns with the wording behind several of the objectives,. For example social justice and equality should be in line with the Public Sector Equality Duties. Anything less than achieving the outcome specified in law leaves ambiguity and an inability to enforce the purpose of the Bill.

If an objectives approach is followed, it should follow more closely the “Principles” approach taken by Quebec, bringing important objectives such as the precautionary principle, internalisation of costs, and subsidiarity into the definition of sustainable development that they create.

Objectives should not subsume within others. In fact the opposite view, that more objectives are beneficial where they can be clear, precise and measurable in respect of their achievement. Whilst this appears to create additional burden by having more objectives to comply with, it actually reduces the compliance burden by being easier to see and demonstrate compliance with clear objectives.

The Welsh sustainable development objectives should fitting more closely to international progress on sustainable development. Wales cannot secure a sustainable planetary future by itself, but must be part of international work. Welsh sustainable development objectives should have a clear relationship to the Sustainable Development Goals identified at the Rio+20 summit, in the same way as our climate change targets are clearly linked to the UNFCCC COP agreements.

Wales also has an outward role to promote and support sustainable development outside our nation. Important projects such as Wales for Africa are an important part of our

sustainable development efforts, and there is therefore a need to outwardly promote sustainable development, at least at a national level, within the Bill.

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

If the correct objectives are stated, it should be clear and simple to measure progress against them, identify actions and decisions taken which will not achieve them, and should be relatively easy to demonstrate compliance.

The objectives could be used to develop a basis of a democratic mandate if the sustainable development objectives are agreed by the Assembly. It will then be up to succeeding administrations in Government, local authorities etc. to set out their plans to achieve these long term goals through the mechanism of a sustainable development Strategy.

There should be independent scrutiny of the effectiveness of these plans and their implementation in meeting the long term goals, with the First Minister, for example, reporting to the Assembly on this, with the Commissioner and the Auditor general providing an independent review.

Para 103 states one of the problems with this approach. Laying out a list of objectives, isolated from one another, would indeed make it difficult to require decisions to be consistent with them all. The whole need here is for integration. The whole consultation does not give due weight to the need to respect environmental limits and the issues of equity between and within generations is failing to make clear what is required by an integrated approach to social , economic and environmental outcomes.

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

A duty based on a single proposition alone would be too vague to achieve widespread compliance, let alone make substantial national progress on embedding sustainable development.

A valid approach could be to specify a single proposition, with a comprehensive set of underpinning principles based on the behaviours and objectives inline with the recommendation in this consultation. There is a lot that can be learned from the approach to the Equalities Act. This has a general duty, which is in order to meet the general duty, a public authority must ensure they follow certain principles. There are in additional specific duties which are to help public bodies in their performance of the general duty and to aid transparency. If a similar approach to the SUSTAINABLE DEVELOPMENT Bill was taken, this would help with the implementation as public bodies have experience of a similar framework and process.

The proposition suggested in the consultation would be inadequate because it appears very human centric, focused on one element of sustainable development and doesn't recognise the interactions between society, economy and environment. Enhancement suggests a possibility for overconsumption, and does not really recognise equity and the need to live within environmental limits.

The duty must be substantive and require all functions and powers to be exercised to achieve sustainable development. The interests of future generations must be taken into

account and it must ensure respect for environmental limits. A duty should insist on the integration of social, environmental and economic factors in decision making.

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?

The approach for the Public Sector Equality Duties guidance worked well. The EHRC produced this which allows independence. Suggest therefore the sustainable development Body produce them.

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?

It should not lead to the repeal of the Public Sector Equality Duties although serious consideration needs to be made about how we align these duties to ensure that undue burden is not placed on the public sector or the third sector and duplication is avoided.

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

Reporting of progress, compliance and barriers are all critical parts of the Bill forming a strong and useful duty that will enable Wales to embed sustainable development. It would be preferable to see existing mechanisms used where possible and appropriate, provided that data is made available easily and transparently.

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

There is a misconception throughout the document regarding the difference between 'public services' and the 'public sector'. The third sector is a partner in both planning and delivering public services. - so what are we saying? Are we just asking for them to be clearer or make sure they use one over the other?

Sustainable development should be the central organising principle of every organisation in every sector in Wales, in order to achieve system-wide progress. Legislating for this in full falls outside the legislative competence of the National Assembly for Wales, but may come within its competence in future.

WCVA believes that every organisation upon which the NAW has competence to pass legislation should come within the duty, and the organisations subject to the duty should be defined such that as soon as an organisation is formed or comes within competence, the duty automatically applies to it. This should be matched politically by a will on the part of Assembly Members to seek competence over fields where being able to make sustainable development the central organising principle of the organisations delivering in those fields would make a real difference to progress.

It will also be important to clarify the distinct roles between the Auditor-General and the new sustainable development body. It is not clear what a sustainable development examination to be carried out by the Auditor-General may encompass. WWF would be concerned if this was purely related to procedural performance relying on statistical data as this would not really evidence whether changes in behaviour are influencing impact and benefits on the ground. There needs to be some mechanism for reviewing the effectiveness of policies, plans and strategies adopted by councils and how they are implemented to measure whether progress towards achieving sustainable development is being made.

Local service boards are not included nor are quasi public bodies such as Heads of Valleys regeneration. These are key deliverers and commissioners of public services and should be included. Heritage, archaeological and cultural authorities (such as Cadw) should also be included. These are responsible for managing historical and cultural assets which are important elements of our environment and society.

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

It is essential, as the consultation states in Para 124 that a definition is made to ‘bring consistency and coherence to ... sustainable development law in Wales and to the public sector’s efforts to comply with it’. WCVA believes that the advantages of defining sustainable development far outweigh any disadvantages.

At the sustainable development Bill events held for the third sector in January 2012, in conjunction with WG, there was mostly support for a clear and consistent definition for sustainable development. Currently sustainable development can be interpreted in a number of ways which leads to confusion, lack of understanding and inconsistency in delivery. If WG want third sector, especially non green third sector to engage in this agenda, a definition is needed (see report from event http://www.wcva.org.uk/images_client/policy_paper/Report%20from%20RPE%20Jan%2020126.pdf)

The fact that many other pieces of legislation may refer to sustainable development is another important reason why coherence must be achieved between them. Conflicting requirements on public bodies even more than on Government, will make the achievement of sustainable development impossible. For example, the concept and definition of wellbeing & cross referencing with sustainable development in the proposed legislation Social Services (Wales) Bill. This has introduced a definition and it seems important to cross reference & use same terms and concepts/vision. In the SS Bill WCVA and the third sector responded to this proposed Welsh Government definition adding the additional:

- environmental wellbeing
- social inclusion (*social needs to be separated from economic wellbeing*)
- enabling people to support each other reciprocally within their own networks and communities

By comparison the definition of sustainable development in the Bill consultation is vague and weak.

A stated disadvantage is that our understanding of what constitutes sustainable development change so we may wish to change the definition. WCVA supports WWF

position that the Brundtland report and its definition has stood for 25 years and the issues raised in the Rio Declaration in 1992 are still relevant today. Better understanding of the exact nature of environmental limits and how to measure human well being will no doubt develop. This is unlikely within the next 25 years to fundamentally alter the principle of what sustainable development is. What will alter are the boundaries of that 'safe operating space' and our knowledge of what affects it. Therefore, it is right that detailed targets and plans can be developed in strategy and guidance and amended accordingly, a process of this should be laid down in the Bill.

The point that the definition needs to be flexible is in principle a valid one - especially as many public bodies will be covered. However, it seems possible to have a definition that maintains the basic principles and then focuses down on the specifics of the Ministers' and public bodies' functions and roles (within the Assembly's legislative powers) and then uses guidance from the point at which those functions diverge to tailor-make it to their roles in order to allow some flexibility. This is an approach which is used in the Public Sector Equalities Duties which have a General Duty and then Specific Duties for certain authorities to help them meet the General Duty.

A suggested approach would be to define sustainable development sequentially - there is a general definition, such as the Brundtland, then there are the principles, based on the Rio Principles then there are specific goals/targets/indicators which flow from the principles.

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

WCVA still believes that the definition used in One Wales One Planet is a useful basis for any definition in the Bill. It should be considered the default definition for any legislation, whilst recognising it is not ideal. It, of course, needs examining in the light of the powers of Assembly, Government and other public bodies. This will be a lengthy task and should be underway now to ensure its completion by the introduction of a Bill in 2013. WG along with key stakeholders should explore the definitions used by other countries and seek expert advice on the definition. There were a number of countries and experts at Rio +20 who were exploring definition in legislation and this should be incorporated into our thinking. An expert working group should be set up and facilitated by the Sustainable Futures Commissioner or Cynnal which explores this issue.

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

This was a question asked at the sustainable development Bill events held in January in partnership with WG. The majority of the attendees thought that the Body should have a role to support and scrutinise public authorities.

There needs to be thought to sustainable development Commissioner and how this relates to the other existing commissioners who have a defined group to champion e.g. older people, children. Given that sustainable development is cross-cutting there consideration is needed on the hierarchy and relation to other legislation.

There is the proposal for an independent body to provide expert advice and guidance, scrutiny and annual reports. Many third sector organisations have a constituency and therefore a mandate for a similar role therefore WCVA would be keen for the new body to be clear on its relationship with the third sector, and the accountability and therefore legitimacy of this proposed independent body. Also, for organisations, many, particularly in the third sector, will be supplying services to the public bodies. They will also need support

and guidance on their roles in sustainable development. Similarly, it was recognised in the Rio declaration and elsewhere since that all sectors and individuals need to be engaged to make sustainable development happen. This Bill is currently not making provision for this. There is currently lack of support and resource for third sector organisations to engage in sustainable development Cynnal's resources, unless targeted and in partnership with other stakeholders, are not enough to deliver on this agenda.

More thought needs to be given to how the sustainable development Body relates to the Climate Change Commission. The sustainable development Bill consultation does not detail this. Perhaps a paper outlining these relationships should be developed by WG.

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

If there is clarity on the commissioner's role, as we suggest above then the preferred approach for the body is acceptable, with some improvements as suggested. A critical friend role alone is insufficient for this.

There should be provisions in the Bill which expressly ensure that advice is made public. In the way that the Committee for climate change, publishes its advice to Governments on meeting the targets in the climate change act. Such transparency is important for the body to have the trust and confidence of all sectors of society - not just of the public sector bodies themselves.

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

We agree that establishing the commissioner and the body as statutory roles and bodies is a good idea and can see only advantages to this approach. Having a statutory basis provides clarity on the role and purpose of the body, its functions and powers and how other bodies and people are meant to engage with it. It also allows for proper accountability and ensures the longevity of the new body, reducing the ability for successive governments to withdraw support without proper debate and agreement across the Assembly.

True independence would be guaranteed if the role were appointed or elected by the National Assembly for Wales, rather than the Government. The public's interest could be guaranteed from any undue influence of the public sector bodies or Government in the selection process. It is essential that the new body is independent and appointment is not affected by political issues within the WG. The long term approach to appointments is necessary to support role of the body.

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

WCVA agrees that the new body should be independent from Government. This will enable it to provide impartial and robust advice and guidance which is not influenced by the politics of the day, as well as allowing it to be fully accountable when reviewing actions of other bodies.

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

It is important that the structure of the body is representative - i.e. includes expertise and skills from across the different sectors and sustainable development overall, including third sector representation. The body should be publicly accountable with full transparency and reporting, subject to FOI, etc.

Consideration should also be given to how different regions are represented to reflect the urban and rural aspects of sustainable development issues and delivery.

JM
WCVA
July 2012

Annex 1 – Sustainable Development Bill and procurement

All Welsh public bodies should consider how public services, goods, and works contracts contribute to environmental, social and economic wellbeing.

WCVA supports the use of grants as the preferred mechanism for funding the third sector, rather than concluding contracts through procurement. Grants offer greater flexibility, more opportunities for dialogue, and less bureaucratic processes than procurement. In the context of sustainable development, there is far greater scope to advance social, environmental and economic objectives through grant funding than through procurement, where certain restrictions apply.

Where procurement is legally necessary however, 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.

In this time of decreasing public spending, it is becoming more important that every pound of public money spent in Wales is used to maximum effect. The Welsh public sector spends around £4.3bn a year on external services, goods and works. 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.

If Community Benefits were legally mandated, it would place sustainable development at the heart of purchasing and ensure that the considerable investment made by Welsh public bodies went even further to improve communities and the environment in Wales.

The public sector in Wales provides funding in a number of ways, including grants to organisations, and contracts for services, goods and works, concluded through procurement. The scale of public procurement in Wales is considerable: estimated at around £4.3bn every year.

Community benefits – or social clauses – are a means of securing additional benefits through procurement activities. The inclusion of community benefits in public contracts can lead to improved social outcomes and are a means of helping public sector procurement become more sustainable.

Possible examples of community benefits which contribute to sustainable development include:

- Opportunities to create apprenticeships or placements for young people or the long-term unemployed in construction contracts
- Landscaping projects or improving wildlife habitats in transport infrastructure projects
- Community initiatives such as volunteering days or local community involvement and consultation
- Supporting volunteers to deliver services
- Reducing waste and environmental impact in supplies or works contracts

The Welsh Government has long been committed to sustainable development, and there are a number of initiatives already underway that seek to encourage sustainability and social improvements within procurement:

- Value Wales' Community Benefits work has produced examples of quantified added value in procurement activities
- Sustainability Risk Assessment template
- Sustainable Procurement Assessment Framework

The implementation of Community Benefits has achieved a number of examples of demonstrable, monetised benefits across Wales, in the areas of job opportunities, apprenticeships and local supply chain development. One of the opportunities offered by this work is for third sector organisations to deliver elements of larger contracts as sub-contractors.

Value Wales have also produced a charter for working with SMEs (including the third sector), guidance about procurement and the third sector, and specific guidance about procuring from supported businesses (for which there is an exemption under procurement law).

There are other examples from Wales, such as i2i's Can Do Toolkits, which provide guidance to social landlords to help them achieve wider social inclusion through their improvement and investment programmes, in the areas of targeted recruitment and training and SME-friendly procurement.

Considerable added value has been achieved by the implementation of the Can Do Toolkits: 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.

Additionally, the procurement activities of non-devolved UK Government departments will now be subject to the Public Services (Social Value) Act 2012, which received Royal Assent on 8 March 2012. This places a legal requirement on public authorities (principally

in England) to have regard to economic, social and environmental wellbeing in connection with public services contracts. There is also a requirement to consider whether to consult about how procurement activities might contribute to securing that improvement in wellbeing. (Note that this legislation only applies to services contracts, not goods or works.)

The examples above demonstrate the real gains that can be achieved through embedding social requirements within procurement. WCVA believes that there is considerable potential to build on the existing good practice in Wales and introduce community benefits into legislation, to ensure that it is a legal requirement that the procurement activities of Welsh public bodies contribute to social, environmental and economic wellbeing, in all services, goods and works contracts above EU procurement thresholds.

Implementation of community benefits legislation would require three key actions: guidance for procurement teams; monitoring and evaluation of its efficacy; and development support for suppliers. We believe that the groundwork for the first two has been developed by Value Wales and i2i; and the latter could be delivered by the Supplier Development Service and sector-specific infrastructure support organisations.

Arguments

1. Encouragement is preferable to legislation

A possible argument against legislation in this area would be that continued encouragement and support would be preferable to a top-down, mandated requirement from Government. Indeed, there are a number of benefits that have already been achieved in this area without legislation.

We would argue that the importance and urgency of the work requires additional impetus, in order to reach those areas which haven't yet implemented community benefits in their procurement activities. Legislation in this matter would commit local and national government to achieving social value and help ensure greater consistency across public bodies in Wales. This fits with Welsh Government's commitment to strengthen its approach in this area.

2. This would mean additional bureaucracy and cost

One concern about social clauses is that they would create an additional bureaucratic burden and costly processes, for both purchasers and suppliers. Rather than being an additional burden, social value should be embedded within commissioning and procurement, and form part of both tender evaluation and reporting. This work won't require the development of an additional tool, as substantial groundwork has already been laid by Value Wales' Community Benefits project.

Implementation of Community Benefits is about achieving the best value from procurement: a lowest-cost approach does not necessarily mean the most sustainable service.

3. EU Procurement law prohibits 'purchasing' specific policy objectives

The consultation document 'Proposals for a Sustainable Development Bill' suggests that introducing additional requirements into procurement is problematic (p.31). Whilst community benefits or social clauses have to operate within procurement law, and they must have relevance to the subject matter of the contract, the proposal is that procurement exercises have *due consideration* of the potential social, economic and environmental benefits. The increasing number of examples and the existing initiatives demonstrate the extent that such considerations can be included in procurement exercises. Organisations are not excluding from tendering for contracts with Community Benefits, but must demonstrate how they will address the contract requirements.

Precedents in this area have been set by the Public Services (Social Value) Act 2012 and the specific duties on procurement set out in the Equality Act 2010. A recent European Court ruling confirmed the ability to include Fair Trade criteria in public procurement. Therefore the inclusion of Fair Trade in public sector tenders would be a sustainable approach to duty and delivery, would remove any barriers that may exist and/or arise and would provide opportunities for promoting good practice.

Furthermore, it is worth noting that proposals to be submitted to the European Parliament suggest changes that would bring further scope for the inclusion of environmental and social considerations as bases for contract award decisions.

4. This is special pleading by the third sector

Although we would argue that third sector organisations and social enterprises would be well placed to demonstrate additional value in public services and some supplies contracts, because of their value base and connection to communities, there is a vast number of contract opportunities for which the third sector has little or no interest: very few third sector organisations can deliver large construction contracts. We are not arguing for social clauses to be included only on those contracts which the third might deliver, but on all goods, services and works contracts above certain thresholds. (We would suggest the current EU procurement thresholds, as there are specific procurement regulations above these thresholds and the scope for flexibility and local determination below.)

Conclusion

It is a commitment in the Programme for Government to "Ensure the widespread adoption of the community benefits approach to contracting in order to maximise the value delivered through procurement expenditure". The National Assembly for Wales' Enterprise and Business Committee's report *Influencing the Modernisation of EU Procurement Policy* (May 2012) states: "The Welsh Government's Community Benefits policy clearly points the way to achieving social and environmental policy objectives through procurement, and it has begun the process well, but it must be more widely applied across public sector contracting authorities in Wales, with a concerted effort to bring all of them up to the standard of the best." The John McClelland Review *Maximising the Impact of Welsh Procurement Policy* (July 2012) recommends that a "mandatory duty for all funded bodies to adopt Welsh Government procurement policy should include delivering the wider benefits of economic, social and environmental impacts".

The initiatives at Wales, UK and European level demonstrate that there is considerable momentum in the area of securing social, economic and environmental benefits through procurement activities. Community benefits are the means of aligning the substantial purchasing power of the Welsh public sector with many of the policy objectives of the Programme for Government as well as wider social and environmental benefits at Local Authority and Local Health Board level.

This is an opportunity to change the narrative about procurement in Wales from lowest cost to more sustainable value, and for Welsh Government to build on its long-standing commitments and demonstrate leadership by placing sustainable development at the heart of procurement, and introduce a more far-reaching duty than has hitherto been adopted in the rest of the UK.

GC
WCVA
Jul 2012

Leonard Cheshire Disability
Cardiff Coal Exchange
Mount Stuart Square
Cardiff Bay
Cardiff
CF10 5EB

The logo for Leonard Cheshire Disability, featuring the organization's name in white text on a dark grey rectangular background.

23rd July 2012

Sustainable Development Bill Team
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Dear Thomas Brown

PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL

Leonard Cheshire Disability is a leading pan-disability charity in Wales. We provide a range of services, including residential care, supported living and projects aimed at tackling digital exclusion among disabled people.

We also work throughout the UK and in 54 other countries for a world in which every person is equally valued. Campaigning is at the heart of what we do, working together to create a society where disabled people have the freedom to live their lives the way they choose with the opportunity and support to live independently, to contribute economically and to participate fully in society.

We were delighted to read the “Proposals for a Sustainable Development Bill” consultation document. In particular we feel that the ambitions for a sustainable economy and a sustainable society have great potential for breaking down the barriers to participation experienced by disabled people in Wales. We look forward to working with the new sustainable development body to enable a particular focus on how sustainable development can mean greater inclusion and equality for disabled people.

One particular area that we did want to draw attention to is the importance of ensuring that any definition of wellbeing aligns with that used elsewhere by the Welsh Government.

The definition currently proposed for use within the Sustainable Development Bill differs from the definition of wellbeing proposed in the Social Services (Wales) Bill. While we would expect the Social Services (Wales) Bill definition to go into greater detail given the focus of the Bill on wellbeing for a particular defined group (people in need) rather than society more generally, it is important that the two definitions complement one another and can work together. This will help ensure clarity as to the meaning of wellbeing across government and among those organisations subject to the requirements of each bill.

We would be happy to provide further information if this would be useful and please let me know if we can assist in any other way.

Yours sincerely

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