



# Papur Gwyn y Bil Datblygu Cynaliadwy

## Ymateb Cymdeithas yr Iaith Gymraeg

### A. Cwestiynau'r Ymgynghoriad

#### 1. Beth yw'ch barn am y cynigion i sefydlu dyletswydd newydd i wneud datblygu cynaliadwy yn brif egwyddor drefniadol i sefydliadau Cymru? [Pennod 2]

Credwn fod datblygu cynaliadwy yn egwyddor dyngedfennol bwysig wrth sicrhau dyfodol llesol, teg a hyfyw i ddinasyddion Cymru, ynghyd â'r gadwyn o ddinasyddion tu hwnt i Gymru rydym yn rhwym iddynt drwy fasnach, economi a'r amgylchedd. Mae datblygu cynaliadwy, pan ceir ei ddiffinio yn ei chyfanrwydd, yn fodd o sicrhau dyfodol llwyddiannus ac ystyriol i'r iaith Gymraeg. Pryderwn nad yw'r diffiniad presennol o ddatblygu cynaliadwy yn holl gwmpasog fel y mae'n sefyll yn yr ymgynghoriad. Ein barn ni yw y dylid sicrhau diffiniad eglur a chyfoes o'r term, gan gynnwys felly'r diffiniad y'i cydnabyddir yn rhyngwladol, sydd yn cynnwys cydnabyddiaeth o ddiwylliant ac iaith. Yn y broses fydd i'w ddilyn yr ymgynghoriad cychwynnol hwn, byddwn yn barod i gynnig cymorth i'r Llywodraeth i sicrhau fod y Gymraeg yn rhan annatod o ddatblygu cynaliadwy o fewn egwyddor drefniadol sefydliadau Cymru.

Yn rhinwedd canlyniadau'r Cyfrifiad, a ddangosodd cwmp yn nifer a chanran y siaradwyr Cymraeg yng Nghymru, gwelwn fod cyfrifoldeb mwy nag erioed ar Lywodraeth Cymru i brif-ffrydio'r Gymraeg. Gresynwn felly'r ffaith nad oes cydnabyddiaeth yn y papur gwyn fod y Gymraeg yn ganolog i'r diffiniad o ddatblygu cynaliadwy yn nhyb y Llywodraeth. Mewn gwirionedd, nid oes cydnabyddiaeth o gwbl bod yr iaith Gymraeg a hyfywedd cymunedau Cymraeg yn cael eu prif-ffrydio yn y Mesur hwn - sydd yn groes i ymrwymiad y Llywodraeth i brif-ffrydio'r Gymraeg ar draws pob adran. Mae'n anodd cysoni'r diffyg sylw i'r Gymraeg yn y papur gwyn ag ymrwymadau "Cymru'n Un: Cenedl Un Blaned", nac ychwaith paragraff 3.31 o'r papur. Credwn fod rhaid i'r Gymraeg fod yn rhan o'r diffiniad i ddatblygu cynaliadwy er mwyn sicrhau bod diben i wneud Comisiynydd y Gymraeg yn aelod ex officio o'r corff newydd.

Nid ydym yn gweld pwrpas defnyddio 'canllaw statudol' er mwyn ategu at ddiffiniad, syniad y pryderwn y bydd yn israddio rhannau o'r diffiniad. Dylai'r diffiniad fod yn glir ar wyneb y Mesur.

Nid ydym yn cytuno y dylai'r Bil fod yn gyfyngedig i benderfyniadau strategol yn unig, mae canlyniadau pob penderfyniad boed yn rhai strategol, rai ymarferol dydd-i-ddydd, neu benderfyniadau gweithredol yn effeithio ar gynaliadwyedd yr iaith a chymunedau Cymraeg. Credwn fod y polisi caffael yn un enghraifft bwysig o bolisi nad yw'n cael ei gynnwys yn y papur. Hefyd, credwn fod angen rhagor o bwyslais ar ganlyniadau yn hytrach na phrosesau yn y Mesur, gan mai'r nod yw newid gweithredoedd cyrff cyhoeddus.

O ran adrodd yn ôl a chydymffurfio â'r ddyletswydd, credwn y dylai unrhyw ganllawiau statudol gael eu cyhoeddi gan y Comisiynydd a'u cyflwyno i'r Cynulliad yn hytrach na Gweinidogion Cymru. Byddai hynny'n sicrhau proses wrthrychol, gan fod y canllawiau hyn yn berthnasol i Lywodraeth Cymru, nid yw'n deg nag yn briodol gofyn i'r Llywodraeth llunio canllawiau iddi ei hunan. Ymhellach, mae'n ein taro'n rhyfedd mai dim ond at adrodd y mae'r canllawiau hyn yn cyfeirio, yn hytrach na chydymffurfio â'r ddyletswydd yn ogystal. Gan fod ymrwymiad gan y Llywodraeth i newid 'gweithredoedd' yn hytrach na ffurf adrodd yn unig, credwn y dylai fod rhyw fath o gôd, strategaeth neu gynllun statudol sydd yn declyn i sicrhau cydymffurfiaeth a hyrwyddo arfer da.

Credwn fod angen diffiniad clir, cynhwysfawr, sydd yn cynnwys y Gymraeg, a hynny ar wyneb y Bil, er mwyn sicrhau bod y ddyletswydd newydd yn effeithiol. Heb ddiffiniad holl gwmpasog, modern o'r term datblygu cynaliadwy, ni fydd sylfaen i'r Mesur adeiladu arno a ni fydd ystyr i'r ddyletswydd heb ddiffiniad o'r fath ar wyneb y Mesur. Credwn ymhellach y dylai'r diffiniad cydnabod bod goblygiadau byd-eang i'n gweithredoedd a chyfeirio at ddefnydd teg o adnoddau'r byd.

## **2. Beth yw'ch barn am y cynigion i sefydlu corff datblygu cynaliadwy annibynnol?**

Os carwn weld datblygu cynaliadwy yn ethos canolog i lywodraethu Cymru, mae'n hanfodol sefydlu corff datblygu cynaliadwy annibynnol i sicrhau llwyddiant. Byddwn yn disgwyl i'r corff arfaethedig yma cynnwys gwaith ynglŷn â chynnaladwyedd yr iaith Gymraeg, lles cymunedau Cymraeg a datblygiad addysg Gymraeg yn rhan o'i goruchwyliaeth. Nodwn eto mor bwysig felly yw sicrhau fod yr iaith Gymraeg yn rhan annatod o ddiffiniad y llywodraeth o ddatblygu cynaliadwy. Awgrymwn y dylai'r corff hwn weinyddu trwy gyfrwng y Gymraeg, er mwyn sicrhau bod yna ddealltwriaeth o faterion cynnaladwyedd iaith yn gynhenid i awyrgylch gwaith y corff, ac nid yn ymylol iddi. Dylid sicrhau fod staff y corff â'r cyfle i wneud ymchwil, ac i ddefnyddio ymchwil gan sefydliadau addysg Cymru yn eu gwaith.

Croesawn y ffaith nad yw'r Llywodraeth am gyfyngu ar ddulliau gweithredu'r Comisiynydd (par. 3.9), wrth reswm felly, cymerwn y bydd pwerau dirwyo, gorfodi, cosbi ar gael iddo. Yn ogystal â'r pwerau cynorthwyo, credwn y bydd angen grymoedd cosbi a gorfodi arno er mwyn atal datblygiadau sydd yn tanseilio'r Gymraeg neu unrhyw elfen arall o ddatblygu cynaliadwy.

Credwn y dylai'r Comisiynydd gael ei benodi gan y Cynulliad yn hytrach na Gweinidogion. Ni chytunwn y dylai'r Llywodraeth gymeradwyo rhaglen waith y Comisiynydd gan y byddai'n amharu ag annibyniaeth y corff. Credwn y dylai geisio sicrhau llif arian annibynnol trwy, er enghraifft, ddilyn model ariannu bresennol Swyddfa Archwilio Cymru.

### **3. Beth yw'ch barn ar y cynigion i roi'r ddyletswydd ar waith a hynny fesul cam, gan gynnwys amseriad sefydlu'r corff datblygu cynaliadwy annibynnol? [Pennod 4]**

Credwn y dylai'r amserlen o ran rhoi'r ddyletswydd ar waith gael ei gynnwys yn y côd, strategaethau, canllawiau neu reoliadau (neu pa bynnag dull statudol a ddewisir) sydd yn cyd-fynd â'r Mesur. Bydden ni'n disgwyl i'r rheoliadau hyn gyflawni o fewn amserlen benodedig, gweithredoedd clir gan gyrrff cyhoeddus, a fyddai'n:

- cryfhau'r Gymraeg a chymunedau Cymraeg gan, ymysg pethau eraill, godi canran a nifer y siaradwyr Cymraeg yn lleol a chenedlaethol

- cwtogi ar allyriadau carbon a nwyon tŷ gwyrdd

- creu a chynnal swyddi gwyrdd

- hybu polisi caffael moesegol, masnach deg, a chynaliadwy gan y sector gyhoeddus

- gyrru gweithredoedd cynaliadwy a moesol gan fusnesau a gefnogir gan Lywodraeth Cymru mewn perthynas â'u gweithredoedd yn genedlaethol ac yn rhyngwladol

### **4. Beth yw'ch barn am y cynigion i wella'r fframwaith atebolrwydd ar gyfer datblygu cynaliadwy yng Nghymru? [Pennod 5]**

Mae Cymdeithas yr Iaith yn meddwl bod y cynigion a wnaed ym Mhennod 5 yn annigonol gyda golwg ar sicrhau datblygu cynaliadwy. Gwelwn y rhesymeg tu ôl i ofyn i'r Archwilydd Cyffredinol archwilio cyrff cyhoeddus o ran y prosesau addas. Fodd bynnag, ni fyddai trefn o'r fath yn ddigonol er mwyn sicrhau bod cyrff cyhoeddus yn cydymffurfio gydag egwyddorion datblygu cynaliadwy neu fesur a ydynt yn cyflawni datblygu cynaliadwy.

Ymhellach, credwn y dylai fod cydnabyddiaeth fod cyrff yn atebol i'r cyhoedd a chymunedau am eu hymddygiad a hynny trwy'r Comisiynydd. Yn hynny o beth, credwn y dylai fod hawliau gan unigolion a/neu gymunedau i herio penderfyniadau gweithredol a strategol cyrff ar y sail. Gallai hynny ddigwydd ar sail statudol ar wahân neu ar sail cwyn i'r Comisiynydd ar y sail bod rheoliadau cydymffurfio statudol wedi eu torri. Eto, mae'r cwestiwn yn ategu pwysigrwydd diffiniad holl gwmpasog, modern o'r term datblygu cynaliadwy, sydd yn cynnwys y Gymraeg, er mwyn sicrhau atebolrwydd ynghylch effaith penderfyniadau ar

yr iaith Gymraeg.

Nid ydym yn gweld pam na ddylai fod gan y corff datblygu cynaliadwy newydd rôl wrth graffu ar gyrff. Fel yr awgrymir gan y papur gwyn, bydd y Comisiynydd yn gyfrifol am herio cyrff ar sail eu perfformiad. Yn anochel felly, bydd atebolrwydd gan gyrff i'r Comisiynydd a'i swyddfa.

**5. Rydym wedi gofyn pum cwestiwn penodol. A fydddech chi'n hoffi i ni roi sylw i unrhyw fater nad ydym wedi'i gynnwys yma, er enghraifft, sut i roi'r cynigion ar waith? Defnyddiwch y ffurflen ymateb i roi'ch barn.**

Credwn fod cynigion y papur gwyn yn annigonol i fodloni ymrwymadau strategaeth iaith y Llywodraeth, rhaglen lywodraethol y Llywodraeth a'r hyn sydd angen i sicrhau dyfodol ffyniannus i'r Gymraeg a chymunedau Cymru. Ymhellach, credwn fod y papur gwyn yn anwybyddu goblygiadau strategaeth iaith y Llywodraeth gan beidio â phrif-ffrydio'r Gymraeg.

Hoffwn weld yr ymgynghoriad hon yn rhoi'r cyfle i Cymru ddatblygu diffiniad Cymreig o'r term datblygu cynaliadwy, wedi ei seilio ar ddiffiniad fwy cwmpasog. Mae yna duedd i'w ddiffinio fel egwyddor go gyfer hirhoedledd cymdeithasol, economiadd ac amgylcheddol. Mae diwylliant ac iaith wedi cael ei gynnwys mewn nifer o achosion ers bathu'r term yn yr wythdegau. Carwn weld y diffiniad fwy gyfoes hon yn cael ei fabwysiadu gan y Llywodraeth. Bydd hyn yn sicrhau cydnabyddiaeth teilwng i'r Gymraeg wrth fynd ati i ddatblygu strategaethau cynaliadwy yn y dyfodol. Gall hyn fod yn adlewyrchiad da ar weledigaeth cwmpasog a chyfiawn Llywodraeth Cymru yn y maes.

Gweler ein hymateb pellach isod am ragor o wybodaeth.

## **B. Safbwynt 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. Gwelwn fod ymrwymiad i ddatblygu'n gynaliadwy yn y maes yn fodd o sicrhau llwyddiant wrth fynd i'r afael a'r dirywiad hon.

Cadarnhawyd y canfyddiad hwn gan ganlyniadau'r Cyfrifiad, a gwelwn fod angen gweithredu ar frys i gryfhau'r Gymraeg. Roedd ugain mil yn llai o siaradwyr Cymraeg yng Nghymru - i lawr o 21% yn 2001 i 19% yn 2011 - ac fe gwmpodd canran y siaradwyr yn holl siroedd y gorllewin a'r gogledd. Targed Llywodraeth Cymru oedd cynnydd o 5% yn nifer y siaradwyr Cymraeg. Ymhellach, gwelwyd gostyngiad sylweddol yn nifer y cymunedau lle mae dros 70% yn siarad Cymraeg - o 92 ym 1991, i 39 yn 2011.

Credwn ei bod yn bwysig bod y Gymraeg yn rhan o integreiddio polisïau, ac felly rydym yn croesawu'r ffaith bod cyfle, trwy'r Bil arfaethedig hwn, i sicrhau y bydd pob penderfyniad a wneir gan gyrff cyhoeddus yn llesol i iaith unigryw Cymru. Mae'r rhan fwyaf o benderfyniadau a pholisïau - 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 gyrff 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 ddiawms 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 gynaladwyedd a geir yn y ddeddfwriaeth;
- angen hawliau statudol i gymunedau ac unigolion herio penderfyniadau gyrff 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 ddiffygiol 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 gyrff 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 papur gwyn 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 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 papur gwyn 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 hymrwymiaadau i'r Gymraeg. Gan nad yw'r Gymraeg yn cael ei gosod fel egwyddor o ddatblygu cynaliadwy ar hyn o bryd 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 gynaladwyedd a geir yn y ddeddfwriaeth.

Nid oes sôn yn benodol yn y papur gwyn 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 osgoi amwyster yn y Bil arfaethedig hwn. Dylid sôn yn benodol am sgil effeithiau ieithyddol a 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 cynaladwyedd 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](http://www.culturalsustainability.eu) yn sôn am yr angen i bwysu a mesur twf economaidd ac anghenion ieithyddol a diwylliannol. Gall 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 2011, fe gwmpodd y nifer o'r cymunedau hynny o 92 i 39. Mae'n glir bod dyfodol yr iaith fel iaith gymunedol o dan fygythiad ddifrifol.

Mae angen sicrhau dyfodol cymunedau Cymraeg felly trwy amddiffyn a meithrin y 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, 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 ymrwymo 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 papur gwyn bresennol.

#### **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 arnynt i ystyried datblygu cynaliadwy wrth weithredu. Hoffem dynnu eich sylw at benderfyniadau y byddem yn disgwyl eu gweld yn wahanol yn dilyn yr ymrwymiad hon. Ymysg 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 yn 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.
- Pa hawliau fydd gan gymunedau i sicrhau bod dyfodol i'r Gymraeg yn ein cymunedau yn ddiogel a bod 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 amal, rhoddir caniatâd cynllunio i archfarchnadoedd heb ystyried eu hymrwymiad i'r Gymraeg o ran darparu arwyddion Cymraeg a gwasanaeth Cymraeg. Er enghraifft, agorwyd Tesco ym Methesda, ardal dwysedd uchel o siaradwyr Cymraeg. Mae'r siop danseilio'r iaith Gymraeg yn yr ardal wrth gyflwyno mwy o



Saesneg iddi. Er mwyn osgoi hyn, gellid mynnu yn sgil y bil datblygu cynaliadwy fod Tesco yn gwneud y Gymraeg yn sgil hanfodol i'r holl weithwyr. 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 datblygu cynaliadwy ei wneud er mwyn sicrhau fod datblygiadau yn cyfrannu i gynaliadwyaeth 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 â'r Gymraeg. Fe welwyd yn achos Bwrdd yr Iaith Gymraeg a chynlluniau iaith y gorffennol 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 phwrpas clir a "dannedd" statudol.

Mae angen cynlluniau economaidd sydd er lles cymunedau a phobl leol; 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. Mae peryglon amgylcheddol a defnydd anghynaliadwy o adnoddau naturiol yn gysylltiedig 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**

Prin iawn yw'r sôn am y Gymraeg yn y papur gwyn, ac yn wir mae llai o sôn amdani nag yn y papur safbwynt gynt. Mae'r papur yn groes felly i ymrwymiad y Llywodraeth i brif-ffrydio'r Gymraeg yn ei holl waith. Mae'r ddogfen yn ei chyfanrwydd yn rhoi'r argraff na fydd cyfeirio at y Gymraeg yn y Mesur, ac ni fydd ychwaith yn cael ei hystyried fel rhan ganolog o ddatblygu cynaliadwy gan y corff datblygu cynaliadwy.

Credwn ei fod yn hanfodol i'r Mesur son am y Gymraeg yn y diffiniad o ddatblygu cynaliadwy.

Credwn y byddai angen cryfhau'r geiriad "*a chynnal ein hetifeddiaeth ddiwylliannol.*" a gyfeiriwyd ati ar dudalen 2 o'r papur gwyn. Mae bellach gan yr iaith 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 i'r dyfodol yn y tymor hir gan fod meddylfryd tymor byr yn gallu tanseilio'r Gymraeg. Fe welwn engreiffiau 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 gyrrff 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.

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 gyfrwng y Gymraeg oherwydd diffygion hyfforddiant a chynllunio yn y GIG. Mae'r enghraifft yn esiampl o sut mae'r diffyg gwasanaeth Gymraeg yn effeithio ar les pobl ar lawr gwlad.

Cytunwn 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.

Credwn y dylai'r Bil roi ragor o bwyslais ar newid meddylfryd ac atal ymddygiad a gweithredoedd gweithredol yn syth, yn y tymor byr, yn hytrach na chanolbwyntio ar brosesau a phenderfyniadau strategol yn unig.

Toni Schiavone,  
Mis Mawrth, 2013

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**YMATEB CYFOETH NATURIOL CYMRU  
I BAPUR GWYN LLYWODRAETH CYMRU –  
CYMRU GYNALIADWY  
DEWIS GWELL AR GYFER DYFODOL GWELL  
Ymgynghoriad ynglŷn â'r cynigion ar gyfer Bil Datblygu  
Cynaliadwy**

**Sylwadau Cyffredinol**

1 Mae Cyfoeth Naturiol Cymru (CNC) yn croesawu cyhoeddi'r Papur Gwyn fel cam arall tuag at wneud Cymru'n batrwm o sut y mae llywodraethu Datblygu Cynaliadwy a'i roi ar waith.

2. Cred CNC fod ganddo lawer iawn i'w gyfrannu at nodau ac amcanion y Papur Gwyn. Diffinnir ein pwrpas fel sicrhau bod amgylchedd ac adnoddau naturiol Cymru yn cael eu cynnal, eu defnyddio a'u gwella mewn ffordd gynaliadwy. Yn y cyd-destun hwn, ystyr cynaliadwy yw ... er budd, ac mewn modd y bwriedir iddo fod er budd, pobl, amgylchedd ac economi Cymru yn y presennol ac yn y dyfodol. Mae'r Bwrdd wedi cadarnhau y bydd yn canolbwyntio ar yr amgylchedd, ond y bydd yn gwneud hynny fel rhan hanfodol o ddarlun mwy o lawer. Wrth reoli'r amgylchedd, byddwn yn defnyddio ac yn meithrin gwybodaeth, yn ystyried anghenion cymunedau a'r economi ac yn cadw mewn cof effaith rheoli'r amgylchedd ar yr economi ac ar gymunedau.

3 Rydym eisoes wedi dechrau ystyried a chynllunio ar gyfer sut y gallwn weithredu'n unol ag egwyddorion cynaliadwyedd, yn enwedig o ran ein trefniadau llywodraethu ac o ran sut y bydd ein penderfyniadau'n arwain at ganlyniadau cynaliadwy yn y dyfodol.

**Dyletswydd Datblygu Cynaliadwy**

4. Mae CNC yn croesawu'r cynigion yn y Papur Gwyn y dylai Datblygu Cynaliadwy ganolbwyntio ar y canlynol:

- safbwynt hirdymor;
- lles cymdeithasol, economaidd ac amgylcheddol;
- canlyniadau ar y cyd;
- gwybodaeth ac arferion gorau
- sylweddoli y bydd yn rhaid gwneud penderfyniadau anodd; ac
- atal ac ymyrryd yn gynnar.

5. Mae CNC hefyd yn arddel y dyheadau hyn i gyd ac yn bwriadu eu cynnwys yn ein polisïau a'n harferion gweithio. Seilir y fframwaith cysyniadol y byddwn yn ei ddefnyddio i ddatblygu ein syniadaeth ar bedair colofn – yr economi, yr amgylchedd, y gymuned a gwybodaeth – a byddwn yn cyflawni'r rhain mewn ffordd gytbwys rhyngom ni'n hunain a'n partneriaid. Crynhoir hyn yn y cyfeiriad y bydd ein llwybr yn ei ddilyn ... Creu Cymru wyrddach, ddoethach, gyfoethocach, iachach.

6. Byddwn yn ymdrechu i fod yn sefydliad sy'n batrwm o gorff cyhoeddus. Felly, rydym yn croesawu bwriad y Papur Gwyn i roi dyletswydd arnom i sicrhau bod

datblygu cynaliadwy'n bwrw gwreiddiau yn brif egwyddor drefniadol inni. Prif elfennau datblygu cynaliadwy fel prif egwyddor drefniadol yw:

- canolbwyntio'n glir ar yr hyn y mae'r sefydliad yn ceisio'i gyflawni er mwyn ategu lles Cymru yn y dyfodol, a
- sicrhau bod penderfyniadau a wneir yn cael eu seilio'n llawn ar ystyried effaith lles economaidd, cymdeithasol, amgylcheddol a hirdymor.

7 Byddwn felly'n blaenoriaethau ein gwaith gydag eraill, ac yn cefnogi casgliad y Papur Gwyn, sef "Ni all y llywodraeth na chymuned ehangach y gwasanaeth cyhoeddus bennu atebion i'r heriau a wynebir ar eu pennau eu hunain: mae gweithio mewn partneriaeth â rhanddeiliaid yn hanfodol ac mae angen ymgysylltu'n effeithiol..." Er mwyn gwneud hyn yn effeithiol, byddwn yn mabwysiadu diwylliant agored a thryloyw ac yn rhannu gwybodaeth lle bynnag y bo modd.

8. Mae CNC yn croesawu'r cynigion i ddefnyddio Byrddau Gwasanaethau Lleol i helpu i gynllunio ar gyfer canlyniadau ar y cyd. Serch hynny, rydym yn poeni braidd nad yw canlyniadau amgylcheddol ar hyn o bryd ymhlith blaenoriaethau pob un o'r Byrddau hyn. Rydym yn amau hefyd ai'r sylfeini daearyddol presennol y seilir y rhan fwyaf o'r Byrddau arnynt yw'r rhai mwyaf effeithiol a byddem o blaid symud at drefniant mwy rhanbarthol, efallai ar y cyd â strwythurau rhanbarthol eraill.

9. Hoffem gynnig dau awgrym a allai gryfhau'r gwaith o gyflawni'r dyheadau a fynegir yn y papur ymgynghori:

**a** Bydd yn bwysig cael diffiniad manwl a dichonadwy o ddatblygu cynaliadwy.

**b** Er mwyn sicrhau bod cyrff cyhoeddus yn fwy atebol am gyflawni'r ddyletswydd yn bersonol, awgrymwn y dylid ei hychwanegu at Saith Egwyddor Bywyd Cyhoeddus – er enghraifft ychwanegu

*Y dylai deiliaid swyddi cyhoeddus yng Nghymru hybu a chefnogi egwyddorion datblygu cynaliadwy fel y'u diffinnir yn y Ddeddf.* Yna, byddai deiliaid swyddi cyhoeddus yn cael eu dal yn atebol am hyn yn yr un modd ag y maent yn atebol am safonau eraill.

## **Corff Datblygu Cynaliadwy Annibynnol**

10. Rydym yn croesawu'r cynnig i sefydlu Corff Datblygu Cynaliadwy Annibynnol i Gymru, ac yn edrych ymlaen at gydweithio'n glos ag ef. Mae cryn gyfle i sicrhau ein bod yn ategu ac yn cydblethu ein hymdrechion. Yn benodol, hoffem weithio ochr yn ochr â'r corff ym maes ymchwil a throsglwyddo gwybodaeth.

## **Gweithredu**

11. Mae CNC yn cefnogi'r cynnig i roi'r ddyletswydd arfaethedig ar waith ar ddechrau'r flwyddyn ariannol. Fodd bynnag, nid yw'r ddadl o blaid ei chyflwyno fesul cam yn cael ei mynegi'n ddigon clir ac fe allai arwain at ddryswch. Mae CNC yn awgrymu y dylai'r ddyletswydd fod yn berthnasol i bob corff cyhoeddus o fis Ebrill 2015 ymlaen.

12. Cred CNC y dylid cael un set o ddangosyddion lefel uchel, ac y dylid seilio'r rheini ar y dangosyddion Datblygu Cynaliadwy presennol.

## **Casgliad**

13. Mae CNC yn edrych ymlaen at barhau i gydweithio â Llywodraeth Cymru a'i phartneriaid ar ddatblygu a gweithredu'r polisïau a'r arferion sy'n sail i'r ymgynghoriad hwn ac, ymhen amser, at weithredu gofynion Deddf Datblygu Cynaliadwy.

Mawrth 2013

## **RenewableUK Cymru response to the consultation on the Sustainable Development White Paper**

**Submitted: 4 March 2013**

### **Question 1: What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales?**

RenewableUK Cymru welcomes the proposal of embedding sustainable development as the central organising principle of selected public sector bodies. However, we have concerns that the 'economic pillar' of sustainable development may be weaker in practice and implementation than social and environmental considerations.

For example our interpretation of the order that established Natural Resources Wales is that it placed a greater prominence to a duty to enhance and maintain Wales' resources to that of pursuing sustainable economic development. We do not feel this approach accurately reflects the purposes of 'Sustainable Development', which in the view of RenewableUK Cymru requires the management of a sustainable economy to be at the heart of all decisions.

### **Question 2: What are your views on the proposals for an independent sustainable development body?**

We agree with these proposals, and would welcome the establishment of an independent body. A sustainable development body should clearly understand the needs and issues facing businesses and industries in Wales and be committed to working closely with them as partners to build a sustainable economy.

Proposals for the body to report on an annual basis to the National Assembly for Wales, in a similar capacity to the reports provided by the other commissioners in place at present are welcome as this will offer the opportunity for the National Assembly to monitor progress on a number of issues of importance to our industry. In particular the body should monitor the Governments success in meeting targets including those targets for renewable energy deployment. However we will require further details of the proposed roles and functions of the body and trust that these will be forthcoming during latter stages of proposals.

### **Question 3: What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body?**

RenewableUK Cymru have no issues with the principle of phasing in of the duty across different parts of the public sector and recognise the greater level of preparedness to implement the duty that may exist within Welsh Government and Natural Resources Wales as compared to other bodies.

However we have concerns that with phasing, different statutory bodies will use different set of considerations when assessing planning applications. For example during the proposed period 2015-2016, Natural Resources Wales could assess planning applications on a different set of criteria to that of Local Planning Authorities and difficulties may also arise if the Welsh Government is required to call in an application or determine an application at appeal.

In this light, RenewableUK Cymru proposes that the Welsh Government considers implementing the duty on the planning functions of Local Authorities and National Parks concurrently with the duty on Natural Resources Wales in order to provide consistency of approach.

**Question 4: What are your views on the proposals to improve the accountability framework for sustainable development in Wales?**

We would support the proposal of improving the accountability for sustainable development in Wales as long as this would take due consideration of economic sustainability and the environmental, social and economic imperative of the need to decarbonise in order to mitigate against and adapt global climate change.

For further information please contact Matthew Williams, Policy and Research Officer via [matthew.williams@renewableuk.com](mailto:matthew.williams@renewableuk.com) or 02920 347840

## CONSULTATION FORM

### Sustainable Development Bill White Paper

We want your views on our proposals for a Sustainable Development Bill.

Please submit your comments by 4 March 2012.

If you have any queries on this consultation, please email:  
[SDBill@wales.gsi.gov.uk](mailto:SDBill@wales.gsi.gov.uk) or telephone: (02920 82) 1728 or 6541

#### Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.



**CONSULTATION FORM**

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
<b>Name</b>	Kate Cabbage	
<b>Organisation</b>	Royal Society of Architects in Wales	
<b>Address</b>	4 Cathedral Road Cardiff CF11 9LJ	
<b>E-mail address</b>	kate.cabbage@riba.org	
<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Authorities/Community & Town Councils	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies and Associations	<input checked="" type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

<b>Q1</b>	What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]
<p><b>Please provide your views below:</b></p> <p>The Royal Society of Architects in Wales broadly welcomes the Government’s intention to embed sustainable development as a central organising principle for a limited number of public bodies in Wales.</p> <p>We welcome assurance that the duty will apply at a strategic level, seeking to ensure a stronger governance framework founded on sustainable development principles, rather than creating an additional bureaucratic burden on already over-stretched organisations.</p> <p>The Welsh Government’s intention to “promote understanding” (2.6) is of significant importance and we would urge that this is implemented in its broadest sense. In order for sustainable development objectives to be realised individuals at all levels of public bodies need to both have an understanding of, and appreciation for, sustainable development principles. Beyond this understanding, they ought to have clear support to understand how this applies in practice, and how they can question decisions that they feel do not fully embrace the principles of sustainable development.</p> <p>We would cautiously agree that the combination of behaviours and objectives approach ought to be used (2.8). However, given that the sustainable development agenda is in its infancy, and is evolving at a significant rate, it</p>	

**Q2**

What are your views on the proposals for an independent sustainable development body? [Chapter 3]

Please provide your views below:

The RSAW would agree that the new independent sustainable development body ought to provide high quality support and guidance to the public bodies captured under the duty and civic society more widely (3.3). However, we would caution that every effort needs to be made to ensure that the mere existence of such a body is not interpreted as proof positive that sustainable development outcomes are being achieved. It is important that the body, and Commissioner role, are part of a wider process, not part of a tick box culture.

It is crucial that civic engagement underpins the role of the body and we believe that the sharing of best practice and information regarding sustainable development should be undertaken with a broad range of stakeholders beyond those captured by the duty. The independent sustainable development body has the ability to add value by positioning itself as an expert resource and a facilitator of information exchange. It is essential that the remit of the body extends beyond the production of guidance for a limited number of bodies.

There needs to be consistency of application at senior levels embedding sustainable development within the core governance and business structures across all sectors. We would suggest that the new independent sustainable body would have a clear role in identifying practical examples of application, improved structures for integrated cross departmental working, and better engagement with stakeholders.

**Q3**

What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]

Please provide your views below:

We agree with the phasing of the duty including the timing of the establishment of the independent sustainable body.

**Q4**

What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]

Please provide your views below:

We would agree with the accountability arrangements as proposed (5.3) noting that it is essential that the role of the independent body does not detract from the role of the Auditor General in assessing compliance with the duty.

**Q5**

We have asked five specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.

Please provide your views below:

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<p>Please complete the consultation form and send it to: <a href="mailto:SDBill@wales.gsi.gov.uk">SDBill@wales.gsi.gov.uk</a> Please include 'WG17030' in the subject line.</p>	<p>Please complete the consultation form and send it to: Sustainable Development Bill Team Welsh Government Cathays Park Cardiff CF10 3NQ</p>

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**Q1: What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales (Chapter 2)**

The Royal Society of Architects in Wales broadly welcomes the Government's intention to embed sustainable development as a central organising principle for a limited number of public bodies in Wales.

We welcome assurance that the duty will apply at a strategic level, seeking to ensure a stronger governance framework founded on sustainable development principles, rather than creating an additional bureaucratic burden on already over-stretched organisations.

The Welsh Government's intention to "promote understanding" (2.6) is of significant importance and we would urge that this is implemented in its broadest sense. In order for sustainable development objectives to be realised individuals at all levels of public bodies need to both have an understanding of, and appreciation for, sustainable development principles. Beyond this understanding, they ought to have clear support to understand how this applies in practice, and how they can question decisions that they feel do not fully embrace the principles of sustainable development.

We would cautiously agree that the combination of behaviours and objectives approach ought to be used (2.8). However, given that the sustainable development agenda is in its infancy, and is evolving at a significant rate, it seems reasonable to presume that other behaviours or objectives may be identified in the near future. Therefore we would suggest that these are best captured as guidance and not embedded in legislation from the outset, in order to allow them to be updated with sufficient ease to reflect changing circumstances. The new sustainable development body could potentially have a significant role in developing and updating sector specific guidance.

We would also note that all of behaviours and objectives would need to be given equal consideration and be applied concurrently. There would be no benefit in one being considered more important than another. We would encourage that any trade-offs between objective be explicit and transparent.

In line with DEFRA's 5 pillars of sustainable development we would suggest incorporating using sound science responsibly as an objective:

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

These pillars are referenced in England's National Planning Policy Framework and we would advocate their inclusion in emergent planning and sustainable development policy in Wales.

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A combined behaviours and objectives approach would undoubtedly allow a more substantial focus on outcomes rather than processes. In this regard we would consider this approach gives greater clarity of expectation.

We would welcome “clarity in relation to the outcomes sought” (2.9) and would urge the Government to make certain that the duty is sufficiently robust as to ensure it has a genuine impact across all sectors.

Although we welcome the ambition of emphasising a long-term view and the need for preventative measures (2.12), we would question whether this is in itself a measurable target or one whose effect could be suitably defined. Although we have the means to measure carbon, nitrogen and water cycles it is difficult to identify degraded or enhanced wellbeing. Therefore we would suggest that the way in which long-term wellbeing is defined and prioritised ought to be very carefully considered.

The definition of sustainable development needs to be clear and meaningful from the outset. Should the definition remain vague the importance of the concept would be diminished. By adopting a clear definition in line with the Brundtland definition the Welsh Government would clearly demonstrate that it sees sustainable development as something which extends beyond Wales’ borders and coastline and looks at the global impact of a government which is internationally responsible.

It is clear that the proposed duty ought to consider economic, social and environmental wellbeing. However, as the Brundtland definition identifies, economic, social and environmental concerns outside a country’s borders are often relevant to decisions made within them, particularly in a global economy. We would therefore recommend that guidance notes that decisions that enhance the economy, society or environment of Wales, but compromise these elements elsewhere, would not be sustainable. We note a commitment (2.15) to ensure that sustainable development in Wales is undertaken in a “reasonable and proportionate manner” within a global context but would suggest that clarification is needed as to what exactly this will mean in practice; for example, will positive duties, in terms of prevention and long-term wellbeing of future generations apply equally, when considering the impact of decisions on those living in other countries. Will the bar be set as high?

Long term well-being is of paramount importance to real sustainability, and for construction this is best captured through high quality, inclusive design. It is demonstrable that a good quality built environment is valued and enjoyed by those that use it, and as such it delivers enhanced wellbeing and typically achieves prolonged useable lifecycles.

It is unclear from the white paper the extent to which the Government’s approach will encourage understanding sustainability in this more practical way and therefore how effective it will be in ensuring the sustainability of our built environment.

We are pleased to note the Government’s acknowledgement that the detailed understanding and interpretation of sustainable development has evolved over time (2.16). We would suggest adequate consideration is given to the fact that this understanding will undoubtedly continue to evolve and as such legislation needs to be sufficiently flexible in order to accommodate this

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development. We would suggest that the quality of accompanying guidance will make or break the effectiveness of this legislation in practice and would urge that guidance embeds the importance of high quality design.

With reference to 2.21, although we would agree that different organisations will inevitably be working towards different outcomes, and can see benefit in these being identified up-front, there is the potential for outcomes to be too vague and thus unenforceable. Whilst clearly defined intended outcomes may help in terms of accountability, this largely depends on the quality and thoroughness of outcomes identified in the first place. It is essential that the quality of the detail given regarding intended outcomes is high, and underpinned by a clear legal obligation that includes requirements to deliver quality design.

We would agree with 2.24 in that the way in which decisions are reached ought not to be prescribed by law. However, we remain concerned that there is no clear way to define exactly what decision making process have a “key strategic role in contributing to sustainable development”.

With regard to 2.26 it remains our view that without the specific inclusion of budget decisions under the duty good intentions could be watered down. Whilst we appreciate the emphasis on strategic decision making we are concerned that this approach may not guarantee the intended outcomes.

Focussing the duty on decisions that have the greatest influence over organisational behaviour should, in theory, maximise impact. However, we would urge caution in presuming that values and behaviours will automatically change throughout the organisation as a result of decisions at the highest level being subject to the sustainable development duty.

It is our concern that although this method may achieve an uplift in sustainable development outcomes in the short term, as these changes are resultant of a high level decision process which may not be explicitly shared with, and understood by, middle managers and broader staff, it will not ensure that all agents are engaged in and feel responsible for contributing to positive change in the long term.

Although it would be impractical for the duty to apply to all employees, we feel that more needs to be done to ensure that the proposed system does not give the impression that all responsibility for sustainable development can be taken care of at a stage that is very removed from practical application. It would be a shame if this opportunity was not fully utilised to ensure that a general mindfulness of what sustainable development is and why acting in a way that contributes positively to sustainability, is something that public bodies are responsible for communicating to all staff in a meaningful way.

We would suggest that placing a duty on individuals, for example board members, to ensure that decisions comply with sustainable development objectives would encourage a sense of personal responsibility for meeting sustainable development objectives. This would go some way towards mitigating the risk of it becoming a tick box exercise achieved during business planning processes, which inevitably can be removed from operational realities.

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If the duty places responsibility on specific individuals it seems likely that they would ensure that it is suitably embedded in all managerial processes and that buy in is achieved across the organisation.

Formalising an individual's responsibility would also give the law a more clear effect.

Whilst it is important to respect the structure of individual organisations, and to remain mindful that organisations themselves are usually best placed to ensure decisions are made at an appropriate level, it is important that the duty should be applied in such a way as to mainstream sustainable development considerations and therefore should be considered relevant when making any significant decisions.

Although organisations need sufficient flexibility to decide which types of decision count as strategic decisions we would urge that when organisations decide what counts as strategic level the broadest definition is used.

We agree that organisations ought to be “transparent and accountable in the way that they apply sustainable development as the central organising principle” (2.28)

We agree that sustainable development should be reported on through existing reporting mechanisms as it is important that sustainable development considerations are mainstreamed and that no special steps are needed. To issue a separate report would miss the point, and represent a retrograde step. Sustainability considerations should be embedded as should the reporting mechanism.

However we would note that there needs to be more than an “expectation” that organisations will report at least on an annual basis, there ought to be a compulsion for all organisations subject to the duty to produce sufficiently comprehensive reports on a fixed basis (2.28)

We would agree with the organisations the Government proposes to include under the duty.

Although the emphasis is on the public sector it is our view that a clear commitment should be sought from the private and third sectors. Collaborative working is at the heart of sustainable development and the public sector cannot work towards this objective without the support and input of stakeholders from the two other sectors.

There needs to be cross departmental thinking and understanding of sustainable development in every sector. While this issue is clearly more transparent and evident in the public sector the private sector and construction industry must embrace this as well. Departments in the private sector are not as clearly visible or defined as they are in the public sector but they are still there. Ensuring the built environment is truly sustainable will depend on transparent and joined up thinking between RIBA, RICS, ICE and HBF amongst others.

The Government has a role in ensuring that barriers created by ignorance and disengagement are challenged by a clear information and engagement programme and that the Government's actions clearly illustrate the benefit of working in a way that places value on sustainable outcomes.





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## **Q2: What are your views on the proposals for an independent sustainable development body (Chapter 3)**

The RSAW would agree that the new independent sustainable development body ought to provide high quality support and guidance to the public bodies captured under the duty and civic society more widely (3.3). However, we would caution that every effort needs to be made to ensure that the mere existence of such a body is not interpreted as proof positive that sustainable development outcomes are being achieved. It is important that the body, and Commissioner role, are part of a wider process, not part of a tick box culture.

It is crucial that civic engagement underpins the role of the body and we believe that the sharing of best practice and information regarding sustainable development should be undertaken with a broad range of stakeholders beyond those captured by the duty. The independent sustainable development body has the ability to add value by positioning itself as an expert resource and a facilitator of information exchange. It is essential that the remit of the body extends beyond the production of guidance for a limited number of bodies.

There needs to be consistency of application at senior levels embedding sustainable development within the core governance and business structures across all sectors. We would suggest that the new independent sustainable body would have a clear role in identifying practical examples of application, improved structures for integrated cross departmental working, and better engagement with stakeholders.

Sometimes there is a cynicism about sustainable development. The new body should have capacity to encourage and enable people to challenge systems and to think more about sustainable development in the broadest social, economic terms as well as the more easily understood environmental sense. This is not just about lowering carbon emissions.

We welcome the body's role in embedding accountability but question the limitations of its capacity to facilitate integration on the public service in Wales. Clarity needs to be given as to the ability of the new body to lead, rather than simply to advise, if it is to be an effective advocate for sustainable development (3.5)

The function of the new body as an independent advocate for future generations is an interesting one. We would welcome the production of a report on behalf of future generations that would be laid before the National Assembly for Wales, and feel that this level of research could be hugely beneficial to ensuring forward-thinking policy development at both national and local levels (3.6).

With a clear role in the collation and dissemination of best practice from within Wales, the UK and internationally, it is essential that the body is research-led and proactive in its engagement with successful working practices (3.11). Rather than promoting a negative culture of criticising where practices are not sustainable, we hope that the new body will serve to inspire positive engagement with the sustainability agenda.



We welcome the acknowledgement that there are a number of third and private sector organisations that have developed effective mechanisms to deliver sustainable development and are pleased that the body should also seek to apply good practice from these sources (3.11)

Whilst the Welsh Government's proposal seems wide-ranging at this stage, we would urge that the remit and ambition of the body is kept as broad as possible.

In terms of make-up we would agree that in order for the body to be an independent advocate for sustainable development it must be independent of Government and comprise representatives from across the public, private and third sectors (3.14)

As exemplified by the Older People's and Children's Commissioners, having a clear figurehead can be hugely beneficial to raising the profile of the Commission and in ensuring a high level advocate for the organisation. We would support the appointment of a Commissioner for Sustainable Development which would help to give the new body clarity of focus and driving force.

We would agree that there should be an advisory panel comprising a range of individuals from varying specialisms. As architects have a key role in delivering a sustainable built environment, any such panel (3.14). We would caution that whilst a variety of expertise is needed, it is essential that the advisory panel receives adequate training and is encouraged to work in a cohesive and cooperative way, unified under shared aims. Expertise is clearly important, but a shared sense of common purpose will be essential to ensuring successful outcomes.

Whilst we appreciate the need for a degree of flexibility it is essential that the new body is established in a limited time frame with a clear work programme defined and operational within a year of inception. Arguably previous Commissions have taken a frustratingly long time to begin delivering against their objectives which has limited their success, if only initially.

We agree that the body ought to develop its work programme and strategic priorities independently from Welsh Government before being submitted to Welsh Ministers for approval (3.19). We would urge a high level of transparency is ensured during this process.

We would agree that the Commissioner should be appointed using the already established system used to appoint other Commissioners (3.22). We would also agree with proposed reporting arrangements (3.25).

**Q3: What are your views on the proposed phasing of the implementation of the duty, including the timing of the establishment of the independent sustainable body (Chapter 4)**

We agree with the phasing of the duty including the timing of the establishment of the independent sustainable body.

# RSAW



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Royal Society of Architects in Wales

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## **Q4: What are your views on the proposals to improve the accountability framework for sustainable development in Wales (Chapter 5)**

We would agree with the accountability arrangements as proposed (5.3) noting that it is essential that the role of the independent body does not detract from the role of the Auditor General in assessing compliance with the duty.

## CONSULTATION FORM

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**CONSULTATION FORM**

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
<b>Name</b>	Hamish Macleod	
<b>Organisation</b>	BSW Timber	
<b>Address</b>	Carlisle Sawmills Cargo Carlisle CA6 4BA	
<b>E-mail address</b>	hamish.macleod@bsw.co.uk	
<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input checked="" type="checkbox"/>
	Local Authorities/Community & Town Councils	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies and Associations	<input type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Q1

What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]

Please provide your views below:

BSW Timber is the UK's largest domestic sawmilling group, processing around fifteen per cent of the UK timber harvest. The group has an annual turnover in excess of £175m, directly employing over 900 people; indirect employment in timber harvesting and haulage accounts for another 2,500 jobs. The company has six mills in the UK (and one in Latvia), including one in Newbridge-on-Wye. It has been involved in sawmilling since 1848.

The company is currently implementing a five-year capital investment programme across the Group, worth £52m, in modernising the mills and expanding capacity to produce more than 1.3 million m<sup>3</sup>. As such it is one of the largest buyers of timber in the UK. BSW has invested £6m in the Newbridge mill over the past five years. This has allowed for an extension of working hours and the creation of 29 full-time jobs in addition to the 140 full-time staff already employed at the mill.

BSW has been a consistent supporter of the Welsh Government's commitment to sustainable development and is working hard to make sustainable development a central feature of the company's operations. BSW is especially supportive of efforts to maintain and expand sustainably managed forestry as access to timber from these forests is vital to the company's work and its continued investment in the Welsh economy.

BSW supports the proposal for the new duty to embed sustainable development as the central organising principle of the selected organisations. BSW also supports the proposal to introduce statutory guidance alongside the legislation to provide clarity on the definition of sustainable development. The company has previously highlighted that although the existing definition provides a sufficient understanding of the features of sustainable development there would be a risk that more nuanced aspects of sustainable development may be excluded or not given due consideration by the relevant bodies if no further guidance were provided. Although the economic side of sustainable development is mentioned in the current definition the social and environmental aspects are given more weight and it is important that the statutory guidance offers more detail on the economic importance of sustainable development. This will help companies like BSW, that are actively working to support the Welsh Government's commitment to sustainable development, feel confident that their sustainable economic aims are supported to the same extent as the social and environmental aspects of sustainable development.

One area that should be specifically included in the statutory guidance is the importance of using sustainable building materials like timber. Using timber in construction is an easy way to expand sustainability across sectors and should be encouraged in the statutory guidance. The Welsh Government has already indicated its enthusiasm for using Welsh timber in the construction of social housing. BSW would encourage this as a clear demonstration of how the principle of sustainable development can combine all three aspects, i.e. economic, social and environmental benefits.

Working with stakeholders to instigate the duty and to develop the statutory guidance will be essential and the Welsh Government should consult with stakeholders on the development of the guidance. This will help to ensure that all areas in need of clarity are included and that the organisations affected by the duty understand the issues that are important to the businesses and communities that they work with. This will be particularly important for an organisation like Natural Resources Wales which will liaise with a wide variety of stakeholders on a regular basis. Consultation with these external stakeholders will help the bodies that are subject to the duty develop their sustainable development outcomes in line with the needs of their stakeholders.

**Q2**

What are your views on the proposals for an independent sustainable development body? [Chapter 3]

Please provide your views below:

The proposal for an independent sustainable development body is a good, comprehensive approach to ensuring that the organisations, including the Welsh Government, are given support to develop and implement the actions necessary to meet the sustainable development duty and their individual targeted outcomes.

It is positive that the independent body will be expected to collaborate with other organisations to identify best practice and draw on external sources of expertise. It is important that the body contacts stakeholders beyond those organisations that will be subject to the sustainable development duty in order to develop this collaborative source of best practice and expertise. Companies like BSW that have already worked on sustainability in their specific areas of interest can offer valuable information and advice that may be of use to the body and the organisations subject to the duty that it is advising and supporting.

It is also positive that the independent body 'may extend support, advice and guidance to the wider public sector and other organisations where there are opportunities for embedding sustainable development.' This should extend to specific areas of public sector activity such as planning guidance and building controls so that new construction projects will be developed in a sustainable way.

**Q3**

What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]

Please provide your views below:

The proposed phasing and implementation of the duty and the establishment of the independent sustainable development body seem reasonable and sensible. It is important that activity on this begins soon so that the organisations that will be directly affected will have time to prepare while also allowing for enough time for the proper development of the statutory guidance and the selection of the body's Commissioner and secretariat.

The White Paper states that the Welsh Government will work with organisations and stakeholders to develop the statutory guidance and will consult on an appropriate set of sustainable development indicators. This is positive and it is important that views are sought from a variety of stakeholders, across different sectors, so that the most effective guidance and indicators can be introduced.

**Q4**

What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]

Please provide your views below:

A robust accountability framework is vital to ensuring that sustainable development is properly embedded in the organisations. The proposed role of the Auditor General for Wales (AGW) is positive and will help ensure that a rigorous monitoring of sustainable development is undertaken.

It is important that external stakeholders feel able to approach the AGW, and the independent sustainable development body, should they be concerned that their sustainable development interests are not being met by the organisations that they work with. This will help to hold the organisations to account but also encourage them to liaise fully with their stakeholders and ensure that their sustainable development actions meet stakeholder needs.

**Q5**

We have asked five specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.

Please provide your views below:

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**CONSULTATION FORM**

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
<b>Name</b>	Marcella Styles	
<b>Organisation</b>	National Grid	
<b>Address</b>	National Grid House Warwick Technology Park Gallows Hill Warwickshire CV34 6DA	
<b>E-mail address</b>	marcella.styles@nationalgrid.com	
<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input checked="" type="checkbox"/>
	Local Authorities/Community & Town Councils	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies and Associations	<input type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

<b>Q1</b>	What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]
<p><b>Please provide your views below:</b></p> <p>As mentioned in our previous submission (24 July 2012), for it to be effective National Grid considers that the duty should apply to, and be implemented at, all levels of organisational decision making, from strategic plans to operational activities. Otherwise there is a risk that, despite being embedded in high level strategies and plans (such as an annual plan), sustainable development principles may not be sufficiently applied to or implemented into, operational activities and decision making (such as individual environmental permitting decisions).</p> <p>Whilst sustainable development clearly has a long-term dimension, it should be borne in mind that the future can only be achieved via the present. Therefore, as well as ensuring that the duty is embedded in long term plans and strategies, the duty should also be applied from the present onwards in day-to-day activities and decisions.</p>	

**Q2**

What are your views on the proposals for an independent sustainable development body? [Chapter 3]

**Please provide your views below:**

As mentioned in our response of 24 July 2012, whilst National Grid broadly supports the creation of a sustainable development duty for public bodies, we are not convinced of the need to set up the proposed Independent Sustainable Development Body (ISB) as the formation of another body may not be necessary or appropriate. For instance, the creation of the ISB may require resource to be drawn away from the other public bodies, which, in turn, may then encounter difficulties in carrying out their functions (such as environmental bodies, which may impact on their ability to provide advice to developers and to undertake environmental permitting).

As set out in our recent submission to the Welsh Government, National Grid is generally supportive of the creation of Natural Resources Wales - a single environmental body for Wales (see our submission of 2 May 2012). We are not clear how/where the ISB would “sit” within these proposed arrangements and there may be a risk of duplication or lack of clarity.

An alternative to setting up the ISB would be to make the sustainable development duty itself stronger, so that it holds greater weight in the strategy and decision making of public bodies “by default”, rather than relying on another body to monitor the implementation of the duty. This could be supplemented by guidance issued by the Welsh Government to those bodies on how the duty should be applied. Organisations could then be required to report back on compliance with the duty through their existing reporting arrangements. National Grid considers that this would be preferable to setting up a separate ISB.

**Q3**

What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]

**Please provide your views below:**

National Grid agrees with the proposals for a phased implementation of the duty, ensuring sufficient time for the duty to be introduced into practice together with the appropriate guidance and therefore avoiding any detrimental effect on other day to day activities.

**Q4**

What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]

Please provide your views below:

We agree with the proposal that a key role of the public sector should be to contribute to sustainable development and support the view that the agencies and bodies across the public sector should take account of the long term implications of their actions and also be held responsible for their performance in this regard.

**Q5**

We have asked five specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.

Please provide your views below:

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Responses to consultations may be made public – on the internet or in a report. If you would prefer your response to be kept confidential please indicate here:

## How to respond

Please submit your comments by 4 March 2013, in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to: <a href="mailto:SDBill@wales.gsi.gov.uk">SDBill@wales.gsi.gov.uk</a> Please include 'WG17030' in the subject line.</p>	<p>Please complete the consultation form and send it to: Sustainable Development Bill Team Welsh Government Cathays Park Cardiff CF10 3NQ</p>

Additional information
<p>If you have any queries on this consultation, please contact us by email or telephone: Email: <a href="mailto:SDBill@wales.gsi.gov.uk">SDBill@wales.gsi.gov.uk</a> Telephone: (02920 82) 1728 or 6541</p>



## **Response to the Sustainable Development Bill White Paper**

**Respondent's name:** Ele Hicks

**Respondent's Role:** Social Policy Officer

**Organisation:** Diverse Cymru (Third Sector equality charity)

### **Contact details**

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Cardiff

CF5 1JD

### **Organisation Background**

Diverse Cymru is an innovative new organisation in the Welsh Third Sector, created in recognition of the realities faced by people experiencing inequality in Wales.

Diverse Cymru promotes equality for all. We believe that we can work together to challenge discrimination in all its forms and create an equitable future for the people of Wales.

Diverse Cymru aims to make a real difference to people's lives through delivering services that reduce inequality and increase independence; supporting people to speak for themselves and to connect with decision makers; creating opportunities for participation and development; raising awareness of equality issues; and inspiring people to take action against inequality.

Our current services include direct payments, self directed and independent living support, befriending and advocacy. We produce information resources, run a service user involvement project and co-ordinate volunteer placements. We facilitate forums and groups that work on various issues, from improving disability access to equality

impact assessments. We provide consultancy services and deliver a range of training courses on equality related topics.

We would be delighted to assist with the development of specific work programmes, and with engaging service users in future. We are happy for our response to this consultation to be published.

**Question 1: What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]**

We agree, in principle, with the new duty to embed sustainable development as the central organising principle for public sector organisations in Wales. However we have several concerns regarding the practice and implementation of sustainable development regarding inclusion of equality, tailoring to the needs of different protected characteristic (equality) groups and understanding the social aspects of sustainable development, which are outlined below.

When identifying outcomes organisations often find it difficult to identify social outcomes and even more so to address the differential needs and issues facing people from different protected characteristic groups. Whilst the definition of sustainable development provided in this White Paper clearly indicates that the social component is as important as the economic and environmental components we are concerned that organisations will not understand how social and equality aspects relate to sustainable development or how to measure social progress and sustainability and the emphasis will therefore revert to economic and environmental sustainability with a minor element of social sustainability. Outcomes need to take account of equality issues and link clearly to each organisation's Strategic Equality Plans and Objectives, in order to ensure that outcomes can be achieved for all local citizens.

We therefore strongly recommend that the impact and equal importance of the social component of sustainability be emphasised on the face of the Bill. This should involve requirements to evidence consideration of both the overall social component and impacts on each protected characteristic group in all strategic decision making processes and to identify outcomes for each of the components in detail.

In identifying outcomes detailed guidance and training will be needed by organisations to enable them to understand both how to identify social outcomes and the differing needs and issues facing each protected characteristic group which will need to be accounted for within decisions and implementation in order to ensure that all citizens



benefit from actions and decisions. This guidance should include detailed examples of impacts and considerations regarding the social component and equality which should be supported by learning and sharing networks regarding implementing all aspects of sustainable development, including equality impacts, in practice.

We are further concerned that many public sector organisations may see a focus on prevention and long term thinking as impossible, given the current economic situation. Whilst long term thinking and prevention save considerable public money through preventing needs arising and improving the health and wellbeing of people in Wales, in the short term there is a conflict between investing for the future and meeting the current needs of people in Wales, as savings are not realised immediately through preventative action. Therefore the clear benefits of partnership working across sectors, including with third sector organisations and co-production with local citizens should be emphasised as a route towards ensuring that the needs of local communities, including protected characteristic groups, are identified and met in a coherent manner which addresses the priorities of current and future generations.

Regarding engagement and involvement, we recognise that there are existing duties to engage with local citizens, including with protected characteristic groups specifically where a decision may affect them differently. We would, however, emphasise the fact that many public sector organisations interpret this duty differently, ranging from simple public consultation with no active engagement of protected characteristic groups to actively visiting local community groups and arranging engagement events for protected characteristic groups. Therefore we would recommend that further consideration is given, with a view to developing comprehensive statutory guidance, regarding integrating and implementing the existing duties to engage with local communities and to ensuring that effective engagement is carried out both with the general local population and with protected characteristic groups specifically on a range of issues, including Local Area Needs Assessments. Organisations representing people from protected characteristic groups should be involved in developing this guidance to ensure that it is relevant to the needs and issues of each protected characteristic group and can promote good practice in engaging with all citizens.

With regard to reporting it is imperative that reports are proactively made available to local people, to ensure that their views can be gathered and actions can assist communities and local citizens to contribute towards sustainable development. In order to do so it is essential that all reports are written in Plain English and Cymraeg Clir as the standard format to ensure that they are transparent and accountable and enable local people to hold organisations to account. This should be in addition to ensuring that reports are proactively circulated to local communities and groups and that accessible

formats are made available to ensure that disabled people can access reports. Reports should also include a specific section focused on outcomes achieved and in progress and how decision-making processes have led to positive outcomes, rather than act as a compliance statement. Compliance statements provide little information or evidence to local people and do not ensure that the needs of different protected characteristic groups and communities have truly been taken into account when taking strategic decisions with a view to ensuring sustainable development.

We welcome the idea that Single Integrated Plans should be the overarching vehicle driving local improvement and service collaboration and that these should account for the full range of social, economic and environmental outcomes for an area. However our experience of plans published for consultation to date is that they rarely mention equality issues, except relating to older and younger people. There are very few links made to Strategic Equality Plans and even where these are referenced actions within Single Integrated Plans do not involve any tailoring or targeting to the different needs of protected characteristic groups except for older and younger people and for disabled people within the extremely limited sphere of health and social care. Given the lower employment rates; lower earnings; barriers to promotion; barriers to accessing public transport; community safety and hate crime; lower educational attainment and other issues in addition to health, wellbeing and social care, which are faced by all protected characteristic groups, but experiences differ between them, this link is vital to ensuring that the needs of local citizens are truly being met and that Single Integrated Plans improve quality of life and outcomes for everyone. This need to ensure that Strategic Equality Plans and the needs and issues facing each protected characteristic group are integrated into local Single Integrated Plans should be specifically mentioned on the face of the Bill in any legislation to put the single integrated planning framework on a statutory footing.

We understand that it may not be appropriate to extend the duty to advisory bodies, tribunals and inspectorate bodies, however it is essential that they have the ability to carry out inspections and relevant functions in relation to sustainable development. Therefore strong encouragement to apply the principles of sustainable development to their work should be given and there should be support to ensure that they understand all aspects of sustainable development, including equality impacts, when conducting inspections or other relevant work.

**Question 2: What are your views on the proposals for an independent sustainable development body? [Chapter 3]**

We welcome the emphasis of the proposed body on supporting organisations to embed sustainable development as their central organising principle. This is particularly important given the lack of understanding of the social aspects of sustainable development, social outcomes, and the links to equality issues and the needs of protected characteristic groups mentioned above. These can only be addressed through detailed guidance with examples and through training and sharing good practice.

However we feel it is important for an independent sustainable development body to have the power to make statutory recommendations to organisations who fail to make satisfactory progress towards embedding sustainable development, including regarding integration of equality issues, as a last resort. Without this power there may be organisations that do not see the importance of sustainable development or who repeatedly overlook a specific aspect, such as social and equality outcomes, despite being given support, advice and training. In such cases we feel it would be appropriate for an Independent Body to be able to force an organisation to comply with the duty.

Regarding the composition of the proposed body, given the lack of understanding of the social component of sustainable development, especially of outcomes and the need to actively consider and adapt for equality impacts and the needs of different protected characteristic groups, referenced previously in this response, we feel it is imperative that staff of the body receive comprehensive equality training regarding the needs and issues of each protected characteristic group. We also feel it is essential that external equality advisors and representatives can be appointed to provide the body with more detailed evidence and advice where they require it. If the sustainable development duty is to deliver improved social, economic and environment outcomes for all future citizens of Wales it is imperative that the advice the Body provide is inclusive and well-informed regarding equality issues.

We would also like to highlight the fact that the public appointments process is still not as inclusive as it could be. Many people from protected characteristic groups are excluded by the complicated language used, by a lack of family friendly policies and practices, or by a perception that they would not be welcome. Positive action and active promotion of opportunities through local equality organisations and community groups is essential to ensuring that those with the best skills and experience are appointed and that equality and diversity become a core part of the new Body.

**Question 3: What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]**

We would encourage the Welsh Government to ensure that the process of setting up the Independent Sustainable Development Body is started as soon as possible after the Bill has been passed. As the body will be needed to provide advice and guidance to organisations from April 2015 they will need to have guidance, a work programme, structures and staffing in place in advance of this date if they are to be able to provide effective support to those organisations that become subject to the duty in April 2015.

Additionally we feel it is imperative to focus on developing indicators for social aspects of sustainable development and for the integration of equality within these outcomes. The present indicators focus on economic and environmental aspects of sustainable development and therefore overlook the important social aspects. The development of these indicators should involve both organisations and local citizens across Wales, including those from protected characteristic groups, to ensure that indicators are relevant and meaningful.

**Question 4: What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]**

We feel that the Auditor General for Wales is the appropriate body to inspect many of the organisations listed, as part of their general audit framework. However it will be essential that any auditors or inspectors carrying out work which includes a sustainable development audit are well trained in all aspects of sustainable development, including social and equality related aspects of sustainable development, in order to support the aim of addressing all three aspects of sustainable development equally and embedding approaches to cross-cutting issues such as equality and tackling poverty.

**“A Sustainable Wales - Better Choices for a Better Future”**  
**Consultation on proposals for a Sustainable Development Bill**  
**Wrexham County Borough Council – March 2013**

**Question 1: What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales?**

We would welcome the future relationship around SD with Welsh Government, Wales Audit Office and the new Independent Body to be one of genuine dialogue, moving away from a short term risk averse, compliance mentality to a partnership which delivers co-shaped longer term sustainable outcomes

The next few years could be a golden opportunity for Welsh public sector to develop joined up working and collaborative working around sustainable development as a core principle, sitting down with partners, stakeholders and communities to identify and co-shape how to implement best practice principles.

There is, however not yet much detail given in terms of what does “good” look like and what the Bill will mean for public sector organisations in practice. Sustained and additional ongoing investment will be needed by local authorities, to build internal expertise and capacity, provide ongoing training for staff and managers and to develop relationships with partner LSB organisations plus the wider community. This requirement comes at a particularly challenging time for the Welsh public sector, in an era of doing much more for much less.

**Central Organising Principle**

SD must be a key driver at the initial policy development stage, and an overarching framework of Guidance, support, tools and training will be critical. Clarity is needed over where Welsh Government will contribute financially to local authorities towards this implementation to enable them to deliver long term change on the ground?

The democratic driving role of elected Members within the decision making process needs to be factored in where local authorities are expected to deliver sustainable corporate outcomes. Resources and support for ongoing training and capacity building work to ensure that local politicians are able to balance the long term requirement for SD with their local delivery priorities would be useful.

Developing practical Guidance and clear support will be the critical next step for Welsh Government. Wrexham County Borough Council will be pleased to work with Welsh Government, WLGA and other stakeholders to share our experience and best practice.

A similar approach to the Corporate Health Standard, which is a stepped qualitymark, could be useful as a template for organisations to work towards, collaborate and benchmark themselves against.

**Defining sustainable development**

It will be critical to have a single understanding of what SD actually means, relating the global and national level in terms of fair share to the practical understanding in terms of organisational improvement. The successful implementation of the Bill will be influenced by the understanding of officers, elected Members, and most importantly the wider community.

Whichever definition is used we need clarity and interpretation within the Guidance. It is important for organisations not to get bogged down with theoretical definitions - SD means a common sense approach to organisational improvement and delivering community well being, and may vary in emphasis at a local level.

The agreed definition also needs to clearly filter through to other ALL legislation and guidance produced by Welsh Government. This will help to ensure integration across public service delivery.

It will be critical that the future Guidance will enable organisations to be innovative and creative, rather than stifling the public sector with a bureaucratic Duty and an additional layer of costs.

### **Delivering Outcomes**

The SD Bill will offer opportunities for exploring innovative approaches and better outcomes, such as community benefits, supporting the local economy through procurement etc. Harnessing the value of public sector procurement could be a key way to transform the Welsh economy.

We agree with the principle of strengthening the governance framework in relation to SD but the final Guidance will need to be much clearer how this will practically be delivered.

### **Scope of the Duty**

WCBC agrees with the proposal that the Duty should apply at the strategic decision making level. This needs to ensure that it feeds in and influences at all levels, such as planning decisions, procurement and asset management, and there should also be a consistent requirement to evidence how SD has influenced the decision making process across the organisation.

Due to the current difficult financial environment, local authorities are being asked to significantly reduce their budgets. Whilst embedding SD will lead to effective working in the longer term, there is a worry that local authorities will be imposed with a Duty that will call on scarce resources in the short term.

### **Reporting**

WCBC agrees with the proposal to use existing reporting mechanisms. Clear Guidance from Welsh Government, combined with support to build capacity from the WAO and WLGA will be critical to ensure that local authorities have the time and space to build a robust evidence based framework, and are best positioned to collaborate with LSB partners, plus their wider communities.

### **Collaborative working**

WCBC welcome the proposal to include the Single Plan and shared outcomes as part of the Duty. Clear Guidance is needed to ensure that shared outcomes demonstrate that they are sustainable and had taken sustainability principles into account when being agreed. Clarity is needed over how the WAO will scrutinise the Plan and joint decisions. Will individual LSB partners be responsible for delivery of their part or will responsibility and liability be shared?.

## **Organisations**

Town and Community Council should be given a clear obligation that they act in accordance with the principles enshrined by the duty, but they should not be subject to the duty itself due to their current low levels of capacity.

### **Question 2: What are your views on the proposals for an independent sustainable development body?**

It is not yet currently clear what level of support the body would be able to offer to Welsh local authorities, that is not currently provided by the WLGA, especially in terms of the successful SD Framework programme.

Will there be links between the independent sustainable development body and the formal audit body (WAO) or will there be a clear separation between the two?. Otherwise, there is the possibility that advice provided by the WAO could conflict with informal advice provided by the SD Body.

### **Question 3: What are your views on the proposed phasing and implementation of the duty. Including the timing of the establishment of the independent sustainable development body?**

#### **Phasing of the duty**

The case studies and best practice examples being used in the Bill's consultation are largely from local authorities and health boards. As these organisations are not to be subject to the Duty in the first phase (from 2015), then it would be useful for them to have a light touch shadow audit in the first two years, with local authorities working with the WAO to identify obstacles and barriers. Otherwise there is a danger for them of losing organisational momentum and internal capacity.

If LAs are not subject to the duty until 2016 there needs to be a very clear message from Welsh Government that now is the time is for them to prepare for the Bill, building on what they have already achieved and what is needed to be done, with both the WAO and the new SD Body helping local authorities to prepare.

### **Question 4: What are your views on the proposals to improve the accountability framework for sustainable development in Wales?**

Whilst we welcome the proposals to embed scrutiny and accountability within existing frameworks we have some concerns about the capacity and expertise in sustainability within the WAO to carry out this function.

Similarly, ongoing training and the sharing of best practice is needed for elected Members and officers to build capacity and expertise within the scrutiny functions of local authorities.

#### **Measuring Progress**

There needs to be a focus around the SD indicators / measures so that national level indicators can be used and measured locally.

Whilst the SD Bill states the need to use existing tools and levers such as Outcome Agreements, Indicators and KPIs to facilitate the process of mainstreaming SD, public sector organisations will only make sustained progress by integrating SD across how they work and measuring the right things, not just what they are currently doing.

What mechanism will be put in place to report and monitor individual progress and will there be clear consequences across the Wales for local authorities doing nothing?. Sticks such as a benchmarking league table or the threat of a penalty tax, similar to the CRC, would help to secure early buy in, and help to complement the carrots of Guidance and support.

Prepared by Michael Cantwell, Senior Climate Change and Sustainability Officer  
On behalf of **Wrexham County Borough Council**  
4<sup>th</sup> March 2013.



## CONSULTATION FORM

### Sustainable Development Bill White Paper

We want your views on our proposals for a Sustainable Development Bill.

Please submit your comments by 4 March 2012.

If you have any queries on this consultation, please email:  
[SDBill@wales.gsi.gov.uk](mailto:SDBill@wales.gsi.gov.uk) or telephone: (02920 82) 1728 or 6541

#### Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

**CONSULTATION FORM**

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
<b>Name</b>		
<b>Organisation</b>		
<b>Address</b>		
<b>E-mail address</b>		
<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Authorities/Community & Town Councils	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies and Associations	<input type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

<b>Q1</b>	What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]
<p><b>Please provide your views below:</b></p> <p>The proposals for a duty to embed sustainable development as the central organising principle are laudable and indicate a seriousness regarding the commitments set out in the programme for government. However, the application of such aduty must be consistent and comprehensive and it is difficult to identify this consistency in the tone and content of the White Paper. It is unclear as to whether the paper is informed by recent consultations and a thorough analysis of responses and associated evidence, cross reference across government and an assessment of how this initiative would channel action against findings in an integrated manner. The paper does not make clear how integration would be achieved under the new duty, other than through a new body, which in itself risks adding another bureaucratic dimension and further fragmenting processes. The Brundtland basis is clear and useful, yet the paper does not clearly articulate the outcomes expected through the duty, the framework or the resulting new body. It simply sets out proposed reporting and accountability structures. There is no evidence of analysis of current mechanisms/bodies/practice being used/drawn upon to inform this legislative process; none relating to an analysis of current Government practice across, between and through departmental integration. This make is very difficult to grasp tangible elements upon which to form responses.</p>	

**Q2**

What are your views on the proposals for an independent sustainable development body? [Chapter 3]

Please provide your views below:

A new body seems to be a fixed proposal and is not shown here or in earlier consultations to be subject to rigorous analysis and evaluation. Questions of status and remit are not explained in relation to how the body would be effective with and for others, avoiding further fragmentation. Structural/operational proposals are only one element. The proposal that the body itself is not captured by the duty, which seems to be the case, is a fundamental weakness in its capacity to be credible and influence others. How its requirements on others would be fulfilled given differing remits, data protection, expertise, relevant corporate understanding, experience and expertise and not least the Companies Act as it applies to individual bodies, are not set out. Issues around governance in relation to other organisations come into sharp focus immediately when considering operational and strategic effectiveness. Moving through points 2.31-2.36 raises questions about further fragmentation rather than cohesion; what examples and precedents are there; would LSBs be returned to a burdensome mechanism, working against the purpose of LSBs? How will Town & Community Councils be resourced to respond adequately? Items covered in 2.33 regarding integration and simplification are surely the role of Government. It is not clear how 2.34 activity will either improve effective governance or enshrine SD - no analysis/evaluation of extant precedents is shown (if it has taken place). What reasoning informs which bodies/whom would be subject to the duty? How would the inherent inequity and fragmentation of such an approach be dealt with? Why does Table 1 Exclude DCFW and Cadw among others/what informs this selection?

**Q3**

What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]

Please provide your views below:

Given the questions raised by the paper, timing should be assessed in light of further analysis.

**Q4**

What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]

Please provide your views below:

The accountability framework is a straightforward and familiar model.

**Q5**

We have asked five specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.

Please provide your views below:

The paper raises more questions. Its proposals do not seem to be linked to a vision for SD stemming from Government, or to make key links across Government. This approach may add to administration and bureaucracy rather than stimulate action and kick start further progress. The Design Commission for Wales embeds SD in its strategies, policies and operational approaches. It demonstrates a model, effective for over ten years in establishing networks, collaboration, satellite advocacy and credible expertise with national and international perspectives. It has published and analysed the evidence of its work, pointing to the gaps in achieving greater progress on SD. Design is a problem solving process - not simply an aesthetic consideration. It places people at the heart of its corporate planning, policies, services and strategies and its approach to promoting good design in pursuing its vision for a Wales that is a better place. We're surprised that Welsh Government seems to not to consistently recognise our model, learn from it to a greater extent, and use it to inform and assist. The Design Commission for Wales is a wholly controlled subsidiary of Welsh Government. It provides early strategic expert advice, training, capacity building and brokering services as well as its Design Review service for physical development projects and acts to promote sustainable development, in line with its strategic aims set down by Government. As such, irrespective of scale it is not a third party to Government but part of it, albeit with autonomy as per its strategic aims. Its status is more akin to larger sponsored bodies, yet successive consultations refer to DCFW inaccurately or not at all and/or fail to comprehend its remit. We again request this be addressed.

### Confidentiality

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 indicate here:

## How to respond

Please submit your comments by 4 March 2013, in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to: <a href="mailto:SDBill@wales.gsi.gov.uk">SDBill@wales.gsi.gov.uk</a> Please include 'WG17030' in the subject line.</p>	<p>Please complete the consultation form and send it to: Sustainable Development Bill Team Welsh Government Cathays Park Cardiff CF10 3NQ</p>

Additional information
<p>If you have any queries on this consultation, please contact us by email or telephone: Email: <a href="mailto:SDBill@wales.gsi.gov.uk">SDBill@wales.gsi.gov.uk</a> Telephone: (02920 82) 1728 or 6541</p>

## **Mid and West Wales Fire and Rescue Service**

### **Response to the Welsh Government's White Paper**

#### **A Sustainable Wales: Better Choices for a Better Future**

Mid and West Wales Fire and Rescue Service (MWWFRS) fully supports the ambition to fully embed sustainable development (SD) as a central organising principle within the Welsh public sector. This ambition will be a major challenge but one that must be met to ensure a better future for Wales.

We are pleased to see that the White Paper includes a comprehensive definition of SD that can be referred to in other papers. It is particularly welcome that the definition recognises SD in its full meaning and gives equal importance to Economic, Social and Environmental SD. It has been assumed that the definition encompasses Cultural SD and Corporate Governance, but perhaps this link could be made more clearly. MWWFRS also welcomes the link between SD and Wellbeing as it is believed that this shows a positive outcome of SD.

#### **Question 1: What are your views on the proposals for a new duty to embed sustainable development as a central organising principle in selected Welsh bodies?**

MWWFRS feel that the stated ambition is very worthy but the selected public organisations may need further guidance on the practical measures need to support the ambition. It is believed that a "Vision" for a future Wales should be stated so that organisations can form their own ambitions and strategies that work towards the "Vision".

We very much welcome the emphasis on outcomes. The measurement of progress towards outcomes gives organisations the flexibility to set local outcomes important to that region/sector which contribute to the "Vision". The use of performance indicators may limit the ambition of organisations to areas covered by benchmarked indicators. There is a danger that the goals of improving performance indicators take priority over achieving desired outcomes.

We note that it is suggested that the Duty should be applied to strategic decisions but not budgetary or procurement processes. We believe that budgetary and procurement processes are strategic and that the SD duty should be applied to all strategic decisions. Further, the Duty should be applied in such a way that it flows from strategy into the thinking and decision making processes at all levels. In order to achieve this Governance Statements and decision making processes and criteria will have to be reviewed.

MWWFRS is concerned that there appears to be a general lack of awareness of the White Paper, for the ambition to be met the SD principles needed to be accepted and promoted by all levels of elected representatives and staff throughout the public sector.

While it is agreed that reporting should not be seen to add a further layer of reporting it is believed that the existing reporting framework may not be suitable or appropriate to meet SD needs. It is believed that reporting should be a value added exercise which informs all stakeholders. The development of appropriate reporting gives an ideal chance to review the large number of reports produced in the public sector, assessing their usefulness and worth. This work gives the opportunity to reduce the number of reports by: simplifying; only reporting on what is important; removing repetition; and integrating. It is thought important to produce a narrative setting out the value that a good SD report should add and identify the correct vehicle for such a report. It is believed that it is important that an SD report should concern itself with measuring progress along locally determined outcomes and illustrate how that works toward the vision, not concentrate on performance indicators for bench marking purposes.

**Question 2: What are your views on the proposals for an independent sustainable development body?**

We welcome the creation of an independent body but feel that its functions as well as its relationship with Welsh Government and the Wales audit Office (WAO) should be established at a very early date.

It is believed that its main function should be that of “Guardian of the Vision”. The Body should communicate the “Vision” and ensure that all organisations are working to the Vision. The Body could act as collator of measures and good practice, advisor, critical friend and scrutiny to organisations not audited by the WAO. The Body needs to work closely with organisations and the WAO. It has an important role in the changing of mind-sets to long term goals and to reviewing business models and value for money definitions to include SD aspirations.

**Question 3: What are your proposed phasing and implementation of the duty including the timing of the establishment of the independent body?**

MWWFRS agrees with the proposals of phasing in the duty, but given the major changes in culture and thinking required, it is suggested that periods of dry runs are added into the phasing in period to allow organisations to adjust.

As we propose that the Body has an advisory and guardian role it would be helpful to set the body up as early as possible.

**Question 4: What are your views to improve the accountability framework for sustainable development in Wales?**

MWWFRS believes that there are two elements to the accountability framework, the first being concerned with compliance and the second on performance. While these could be accounted for together we believe that existing strong methods on accounting for compliance exist, while there is no existing system that is strong enough for performance. Further, compliance needs to be reported on a formal basis whereas perhaps, performance is better reported on a more innovative basis. It is

suggested that the Duty should be stated in the Annual Governance Statement along with the procedures adopted to ensure compliance. The Annual Governance Assurance Statement would then be required to show the outcome of any scrutiny of compliance. This is a very formal process which is reported in the Annual Statement of Accounts.

It is suggested that reporting on performance should be around the outcomes planned, showing progress towards the outcome and how that contributes towards the vision. It is believed that reporting on performance should be subject to further consideration with greater details being contained in guidelines.



Sustainable Development Bill Team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

28 February 2013

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

Dear Sustainable Development Bill Team,

**Sustainable Development Bill Consultation Response**

We write to set out our response to the consultation document issued on 3 December 2012.

The Landscape Institute is the Royal Chartered body for landscape architects; the **Landscape Institute Wales** Branch represents the membership in Wales. As a professional organisation and educational charity, the Institute works to protect, conserve and enhance the natural and built environment for the public benefit.

The Institute champions landscape, and the landscape profession, through advocacy and support to our members, in order to inspire great places where people want to live, work and visit. The Institute works with government to improve the planning, design, delivery and management of urban and rural landscape. Within the evolving Ecosystems Services approach to planning within Wales our work contributes directly to cultural services, resource management and wellbeing agendas.

Our response to the consultation is set out below:

**Question 1 (Chapter 2)**

What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales?

Landscape Institute Wales (LIW) fully supports the new duty. Landscape Architects within national and local government and the newly formed single environment body Natural Resources Wales have applied sustainable development principles as a matter of course within their areas of work. Those Landscape Architects working in private practice, in line with government policy also emphasise sustainable development in their work. The key hooks to continue to deliver are closely allied to Planning Policy Wales, seeking delivery solutions which are a positive response to a given place, its resource and the existing and potential societal benefits. Sustainable development embedded as a central organising principle will strengthen this approach.

### Question 2 (Chapter 3)

What are your views on the proposals for an independent sustainable development body?

LIW agree that support to public sector organisations will be necessary to a lesser or greater degree - as some sectors will be more familiar with the sustainable development ethos than others. Training seminars, dissemination of good practice and technical guidance will be essential to help balance and arbitrate between the sometimes conflicting issues.

### Question 3 (Chapter 4)

What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body?

LIW have no particular view on this matter.

### Question 4 (Chapter 5)

What are your views on the proposals to improve the accountability framework for sustainable development in Wales?

LIW have no particular view on this matter.

### Question 5

We have asked four specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.

LIW looks forward to consultation on the sustainability indicators and recommends the inclusion of a Distinctiveness and Environmental Quality indicator, to ensure that Wales does not lose its special identity whilst addressing sustainability within the current financial climate and its legacy.

Please do not hesitate to get in touch should you want to discuss our response further.

Yours faithfully



**Wendy Richards**

Chair, Landscape Institute Wales

**on behalf of the Landscape Institute Wales Committee**

Contact: [mail.Wales@landscapeinstitute.org](mailto:mail.Wales@landscapeinstitute.org)

Landscape Institute, Charles Darwin House, 12 Roger Street, London WC1N 2JU

## **WHITE PAPER: A SUSTAINABLE WALES BETTER CHOICES FOR A BETTER FUTURE – WELSH GOVERNMENT**

The UK Environmental Law Association aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.

UKELA prepares advice to government with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared with the help of the Wales working party.

### **UKELA MAKES THE FOLLOWING COMMENTS ON THE WHITE PAPER ON THE SUSTAINABLE DEVELOPMENT BILL**

#### **General Observations**

In our last response we took the view that the proposals for a sustainable development duty favour the socio-economic aspects of sustainable development at the expense of wider, non-anthropocentric environmental considerations. Whilst we welcome the clarification of the duty and the details of its implementation in the white paper, we reiterate our concern that the wider environment should receive greater consideration than the proposal appears to incorporate. The white paper document sits uneasily alongside other plans to take account of eco-systems goods and services.

#### **Question 1.**

**What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales?**

UK Environmental Law Association: making the law work for a better environment

Registered charity 299498, company limited by guarantee in England 2133283  
Registered office: City Point, One Ropemaker Street, London, EC2Y 9SS [www.ukela.org](http://www.ukela.org)

President: Rt. Hon. Lord Carnwath of Notting Hill CVO PC

We understand from our reading of the paper that a general definition of the duty (based on an expansion of the *Brundtland* definition) will appear on the face of the bill with details of the outcomes and behaviours to follow in statutory guidance. This is a sensible approach but we would suggest that the guidance needs also to take account of situations where conflicts arise between the four aspects of sustainable development (defined in [1.9] as social, economic, environmental and long-term well-being in Wales). There are bound to be occasions where trade-offs between the four 'well-beings' will be required so clarity in this aspect will be essential. Paragraph [2.30] implies that all of the elements must be considered in setting outcomes so presumably a balancing act to ensure maximum overall contribution to well-being is envisaged.

It is made clear that there are no proposals to enhance public engagement in the process of embedding S.D. over and above the mechanisms already in place *viz.* the National Principles for Public Engagement [2.14]. It is our view that the National Principles for Public Engagement are probably broad enough to discharge requirements for public participation in environmental decision making under the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, 1998 (The Aarhus Convention), though the statutory guidance should take account of mechanisms by which public engagement can *practically* be included in the process of embedding S.D. in high level policy processes, particularly since at least some of these, as processes that generate policy, will not be covered by the SEA directive.

The white paper states that the duty will fall principally on the strategic decision making processes in each organisation but the decisions that emerge from these processes will not themselves be subject to the duty, nor will the outcomes that each organisation must achieve be prescribed, though they must be clearly set out [2.21]. We suggest that the measurement of progress towards outcomes should be an essential element of the duty itself and should not be included only as an "expectation" [2.22]. Further we consider that the only workable means of measuring progress toward outcomes will be through a system of indicators. Whilst it is important that the public bodies develop these indicators themselves, we consider that they should have a statutory duty to do so. The duties of the Audit Committee should extend to considering the quality of these indicators as part of its process audit. Without this additional requirement it might be possible for an organisation to demonstrate that consideration of the four elements of well-being was incorporated into

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strategic processes and that they had identified clear outcomes (and thereby discharge the duty) without being required to demonstrate an operative and functional link between the two.

The white paper mentions in passing [2.38] the current obligation of the Welsh Government to “promote sustainable development” in s.79 of the GWA and suggests that this might need to change to “consider the economic, social, environmental and long-term well-being of Wales”. A duty that ‘requires [the government] ... to consider’ seems to us rather less compelling than one that requires the government to ‘promote’. Moreover, most legislative duties require the duty holder ‘to promote’ or ‘to contribute to’. Hence we suggest that one of these more robust alternatives should be adopted.

## **Question 2.**

### **What are your views on the proposals for an independent sustainable development body?**

Though we broadly welcome the creation of the independent body, we also have some concerns that its remit is rather broad and that there is a possibility of conflict between its responsibilities for providing support and guidance and being a ‘critical friend.’ How can the body be a critical friend to the Welsh Government if the latter approves its work programme and strategic priorities? Could this body, for example, adopt a stance against wind farms in opposition to government policy? The critical friend aspect in particular should be explicitly included in the objectives of the organisation as an essential part of its role. We also suggest that in addition to the independent body’s function in supporting the public sector, it should also provide advice and guidance on best practice to the private sector? This might be achieved in conjunction with other bodies dedicated to sustainable development practice in wider society such as Cynnal Cymru. This we consider particularly important given that private bodies that provide public services (such as Dŵr Cymru) are not to be included within the bodies subject to the duty.

We have some concerns -- based on remarks in [3.19] and [3.20] of the white paper -- about the degree of independence the body will enjoy. Whilst the body must clearly be accountable for its use of public funds we fear that the body’s independence may be compromised if its ‘work programme and strategic priorities’ (though set independently) are unduly constrained by the outcomes the government requires [3.20]. This might diminish

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the body's ability or willingness to act as a 'critical friend' to government. After all, the Welsh Government is one of the bodies to whom the sustainable development duty applies.

### **Question 3.**

**What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body?**

Paragraph [4.5] of the white paper mentions the barriers to embedding sustainability that were revealed by the first consultation exercise but makes no mention of what these barriers might be. More detail in this respect might have been useful and would perhaps have allowed a more meaningful response on the implementation.

The list of affected organisations responsible for delivering public services in Wales excludes any private entities that might have this function. We wish to reiterate our concern that the private sector appears exempt from the duty (at least directly). The utility companies arguably have the most significant impact in the country on sustainable development and in that sense are far more important than, for example, the fire service. We appreciate that the Welsh Government's direct control of these bodies may be limited but some attention to the applicability of the duty across both sectors in Wales would seem appropriate given the Government's intention that the duty should become a central organising principle.

### **Question 4.**

**What are your views on the proposals to improve the accountability framework for sustainable development in Wales?**

We understand that ensuring accountability in respect of the duty falls principally (though not exclusively) to the Auditor General for Wales as "the most effective way to deliver clear accountability and robust scrutiny is to embed it within the frameworks already in place for public service organisations" [5.3]. The new independent body will liaise with the AGW [3.28 & 3.29] but will not have any role in assuring accountability itself. This would seem consistent with the goal of not adding to bureaucracy and would comply with UKELA's stated preferences for coherence and integration in that an existing accountability

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mechanism is to be used rather than creating an additional one. It might also lessen the possibility of agency capture since the advisory role will fall to the new independent body and the accountability function to the AGW, thereby avoiding a clear conflict of roles?

However, much will depend on the accountability processes to be employed.

It is envisaged that the AGW will amend the Code of Audit Practice to incorporate 'how the AGW proposes to carry out the audit and the principles to be applied' [5.9]. It is stated [5.9] that the AGW will be expected to scrutinise the extent to which organisations have complied with any statutory guidance published by the Welsh Government. This is well and good so far as it goes. However it is striking that there is no indication of what happens if an organisation is found wanting in the extent of its compliance. We would like to see more detail on what will happen in this eventuality. If the AGW simply reports her/his concerns to the Welsh Ministers we are concerned that this may not be enough to ensure the embedding of S.D. as the central principle of governance. Neither are we convinced that this mechanism will be close enough to the people of Wales to amount to public accountability in the fullest sense since the reports of the Audit Office will probably not attract sufficient public attention. Since the S.D. indicators (particularly headline indicators) will be most significant in the assessment of progress towards sustainable development we suggest that the Audit Office should strive to ensure the quality of these. Furthermore the Audit Office should ensure that indicators are clearly linked to procedures for considering sustainable development in corporate planning.

#### **Question 5.**

**We have asked four specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.**

UKELA has no addition issues to raise.

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## CONSULTATION FORM

### Sustainable Development Bill White Paper

We want your views on our proposals for a Sustainable Development Bill.

Please submit your comments by 4 March 2012.

If you have any queries on this consultation, please email:  
[SDBill@wales.gsi.gov.uk](mailto:SDBill@wales.gsi.gov.uk) or telephone: (02920 82) 1728 or 6541

#### Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.



**CONSULTATION FORM**

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
<b>Name</b>	Dr Einir Young	
<b>Organisation</b>	Bangor University	
<b>Address</b>	Ffordd y Coleg, Bangor, Gwynedd, LL57 2DG	
<b>E-mail address</b>	e.m.young@bangor.ac.uk	
<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Authorities/Community & Town Councils	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input type="checkbox"/>
	Professional Bodies and Associations	<input type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input checked="" type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Q1

What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]

The proposals are welcomed in principle, our opinion however, is that there is insufficient understanding of what this means in practise to ensure that effective legislation is brought forward.

Our greatest concerns are as follows:

i) That "Business as Usual" will, for the vast majority of public sector organisations, be legitimised by the described duty rather than deliver an integrated approach to SD.

Existing public sector authorities already operate within either a social or an economic or an environment context but are struggling to deliver sustainable development 'in the round'. This is in contrast to para 1.14 of the White Paper, which states that Sustainable Development aligns with the fundamental purpose of the public service. This may be true in theory, but if it were true in practice then all public sector organisations would, de facto, already be delivering their services in the most sustainable way and achieving year on year reductions in their ecological footprint; using local and verified supply chains etc.

ii) Consideration of sustainability issue may feature at a headline, strategic programme level, - but at a project implementation level it is likely that the main driver for the project whether it be economic, social or environmental will prevail with at best token consideration being given to the other components of SD.

We will use dilemmas facing a Health Board as an example. If a health board decides to deliver chemotherapy care for patients in their homes, on one level this would certainly 'improve outcomes for people in Wales' (para 1.14). There are, however, associated with this 'good thing' a number of environmental and financial considerations. Likewise, in making financial decisions on rationalisation of health services – which on a cost basis is inevitable to a certain extent, how will a Health Board assess future risks such as the potential inaccessibility of centralised locations to a dispersed population if the cost of transport becomes excessive, if there is reduced car ownership or if the impact of extreme adverse weather events is such that it affects staff, patient and visitor mobility?

iii) We fear that it may be naive to assume that sustainable development will be placed at the heart of many public services given the political cycle and democratic processes combined with a lack of effective debate on key issues. Our understanding is that Welsh Government already 'places sustainable development as its central organising principle'. We raise, deliberately, here a few difficult questions as examples of the complexity of the debate required.

The Welsh Government aspires to increase organ donation (an emotive issue) – which, it could be argued is 'a good thing'. But is now the time, or are there other priorities? For those waiting for a transplant, it's a resounding 'yes' but in May 2012, Dr Margaret Chan, Director General of the World Health Organisation warned that we could be entering uncharted territories where "things as common as strep throat or a child's scratched knee could once again kill."

Is the contradiction between the aspiration to secure improved wellbeing for all citizens of Wales, reduce the consumption of resources and the ecological and footprint whilst potentially planning for a huge increase in the population (Local Development Plans and City Regions) being discussed?

If sustainable development is truly to be a central organising principle then difficult questions such as these need to be raised and discussed widely. Unless the Welsh Government is able to identify the issues concerned and thus clearly demonstrate that sustainable development truly is at the centre of its own public administration the likelihood of other public body organisations rising to the expectations outlined in this White Paper are reduced, and more importantly from an accountability perspective, what would motivate them to do so?

iv) Persisting confusion regarding the understanding and commitment to One Planet principles and to the population of Wales living within global carrying capacity.

Although the phrase "environmental wellbeing of Wales" is used often it is not clear how this will secure the required reduction in global resource consumption and ecological footprint. We fear that it will

encourage people to think inwardly and consider only impacts arising in the natural environment of Wales rather than fostering the global view.

v) Does the word 'sustainable' in this document imply 'financial viability'?

The word 'sustainable' is used extensively in the current Programme for Government but there is insufficient detail to assess whether this goes beyond financially viable or truly sustainable.

vi) A definition of sustainable development is essential and must recognise that whilst governments around the world have long prioritised economic prosperity and social wellbeing, the ecological carrying capacity of the world to sustain such expectations has not been factored in. We suggest that this requires a 'weighting' or positive discrimination - in order to secure parity and ensure long term resource resilience. We also believe that this should be viewed as an opportunity to Wales, not a threat.

vii) Potential confusion arising from misunderstandings around ambiguous drafting which will facilitate 'business as usual'. For example, paragraph 2.15 One interpretation of this is that we may need to justify continued high levels of consumption of an unsustainable resource if by reducing consumption we trigger an adverse economic or social impact elsewhere. Thus the phrase "reasonable and proportionate manner" used towards the end of this paragraph is confusing... because it is not clear what would be considered reasonable and proportionate – nor why.

viii) Lack of clarity over outcomes (and targets) of the legislation. The SD Bill needs be explicit on what it hopes to achieve and what the targets to achieve those outcomes will be. Any actions to deliver targets and outcomes must be appraised against non-ambiguous indicators.

xi) Moving beyond 'cultural heritage' to explicitly acknowledge the Welsh language. Promoting the Welsh language is part of the WG's policies and plans. In a conference on the relationship between sustainability and the Welsh language held at Bangor University on 22nd February there was unanimity amongst the 70 or so delegates that the welfare of Welsh as a living language should be explicit in the definition of Sustainable Development and should be included on the face of the forthcoming Bill and the Planning Bill.

x) Lack of sanctions for non-compliance. If there are none how will it work? Didn't a Political Leader declare a few years ago that economic 'boom and bust' would be abolished and a legal obligation placed on the UK Government not to run a deficit? Might there be a similar risk here?

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Q2

What are your views on the proposals for an independent sustainable development body? [Chapter 3]

There is a strong risk that the 'independent' sustainable body as described in the White Paper will not be independent but will de facto be a PR machine for the Commissioner for Sustainable Futures and for the Welsh Government Ministers. Its actions and autonomy may be seriously compromised by the need for repeated agreement of work programmes. A precedent for this exists - Welsh Government officials exercised micro-management control over Cynnal Cymru which rendered it ineffective as a 'critical friend'. The paymaster might not always welcome the 'critical' element of the friendship. A three year work programme (at the very least) should be agreed to avoid repeated compromise to the body resulting from annual changes in Ministerial priorities, delayed scheduling due to the annual budget cycle or it being drawn into political short-termism or held to ransom for its annual budget - as is inferred in 3.19.

At the time of writing there is a clash between the Welsh Language Commissioner and the Minister. As the Commissioner has not responded the details of the clash are not entirely clear, but raises the prospect of the Sustainable Development Commissioner finding him/herself in a similar position, undermining credibility and 'authority' (if any exists).

The proposed arrangements appear to replicate those currently in existence between Cynnal Cymru and the Commissioner and the evidence for the effectiveness or not of this delivery mechanism needs to be clarified. There is fatigue amongst many SD practitioners who attend advisory panels but see little practical results emerging and who therefore see little added value from replicating existing mechanisms. Good will towards the Welsh Government will evaporate if this problem is not solved. Meaningful, public discussion of Welsh Government policy issues, critical to achieving sustainability, have been inadequate under the existing arrangements and we question whether they are fit for purpose going forward.

How the body will serve all of Wales is unclear. Where will it be based?

Including the monitoring of indicators of progress within the remit of the body may result in this "relatively small body" (3.10) and associated budget being predominantly engaged in work which monitors, rather than secures and promotes, sustainable development.

It is unclear why the body is to have a role which emphasises an 'integrated and collaborative approach to sustainable development by the Welsh public sector' (3.6) This is already happening to some extent and does not depend on the existence of a central co-ordinating body. At a time of reduced resources, the public sector organisations concerned cannot afford to attend yet more events, which seek to justify the existence of an independent body.

Producing a report on behalf of future generations may be an interesting exercise – but what happens to this report? It will be of limited value if after being presented to the National Assembly, it sits on a shelf.

In essence, because there is clear lack of understanding of the critical outcomes which the SD Bill is intended to secure, we suggest that it might be premature to establish a body to assist with the delivery of those outcomes, because the ability to measure such a body's impact is flawed from the start.

**Q3**

What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]

Whilst acknowledging that the intention is laudable, we suggest that there is insufficient understanding on what it is exactly that the SD Bill is trying to secure. The phasing and implementation of the duty, together with the establishment of the independent sustainable development body - all appear premature. There has to be unequivocal clarity of purpose behind the SD Bill if it is to contribute added value. Without this any independent sustainable development body will have a very limited remit

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Q4

What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]

It is not clear why the WG has formed its conclusion that the most effective way to deliver clear accountability and robust scrutiny is to embed it within existing frameworks. These frameworks have been established primarily to ensure financial probity in public expenditure and struggle to ensure a qualitative framework. It is difficult to ensure 'value for money' rather than 'cheapest bid' as illustrated by the concerns over horsemeat in the public sector procurement food supply chain.

Paragraph 5.8 is an example of this point. Existing audits do not ensure that quality decisions have been made; they merely require a tick box approach to ensuring that 'due process' can be evidenced. Professional judgements if not challenged may lead to professional inertia - with a reluctance to genuinely consider alternative, unfamiliar ways of delivery. SD is a new area of expertise. It is essential that the outcomes of a particular decision can be challenged from an informed basis of knowledge. Outcomes deliver change and learning opportunities, compliance with due process does not.

Our preferred option would be for the independent body to engage a wide ranging panel of experts (to be drawn upon as and when required) able to suggest ways to maximise the sustainability credentials of projects and for their recommendations to form part of the approval process – with subsequent audit trails ensuring that there is a robust case made for the decision to adopt or refuse such recommendations.

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**Q5**

We have asked five specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.

The environmental wellbeing of Wales is a phrase which in our opinion will encourage an inward looking consideration of the environmental aspects of SD especially in terms of impact on undeveloped lands within Wales. Wales has a negative balance of trade in goods and materials, food and drink, it is therefore, essential that the global ecological footprint and resource efficient considerations of One Wales One Planet should take precedence, as these will include the environmental wellbeing of Wales as well as longer term resource resilient issues related to consumption etc.

It not entirely clear to us how the wellbeing of Wales can be improved (2.1) whilst we 'live within our means' (2.2) and whilst the Welsh Government simultaneously takes forward proposals to increase the population of Wales (which isn't mentioned). The population issue may be better pursued during the consultation of the forthcoming Planning Bill. This SD Bill white paper sheds no light on how such an oxymoron will be resolved. To have any meaningful impact, the Bill must make the processes that public sector bodies will have to undertake transparent in order to clarify their decision making and enable them to prove how the long term considerations related to sustainable development have been taken into account.

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### Confidentiality

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 indicate here:

### How to respond

Please submit your comments by 4 March 2013, in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to:</p> <p><a href="mailto:SDBill@wales.gsi.gov.uk">SDBill@wales.gsi.gov.uk</a></p> <p>Please include 'WG17030' in the subject line.</p>	<p>Please complete the consultation form and send it to:</p> <p>Sustainable Development Bill Team Welsh Government Cathays Park Cardiff CF10 3NQ</p>

### Additional information

If you have any queries on this consultation, please contact us by email or telephone:

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

Telephone: (02920 82) 1728 or 6541



## Sustainable development Bill White Paper

### Community Housing Cymru Group response

#### 1. About Us

**The Community Housing Cymru Group (CHC Group)** is the representative body for housing associations and community mutuals in Wales, which are all not-for profit organisations. Our members provide over 153,000 homes and related housing services across Wales. In 2011/12, our members directly employed 7,500 people and spent over £850m in the Welsh economy. Our members work closely with local government, third sector organisations and the Welsh Government to provide a range of services in communities across Wales.

#### Our objectives are to:

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

In 2010, CHC formed a group structure with Care & Repair Cymru and the Centre for Regeneration Excellence Wales (CREW) in order to jointly champion not-for-profit housing, care and regeneration.

#### Form Details

**Address:** Community Housing Cymru Group, 2 Ocean Way, Cardiff, CF24 5TG

**Email:** [Shea-jones@chcymru.org.uk](mailto:Shea-jones@chcymru.org.uk)

**Organisation type:** Third Sector

Community Housing Cymru Group Members:

Aelodau Grŵp Cartrefi Cymunedol Cymru:

## 1. What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales?

CHC welcomes the ethos of the document which is in line with our member's visions for "strong sustainable growth to make a difference to peoples' homes, lives and communities". The Bill must represent a step-change in the implementation of policies, services and development to achieve 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 and reduce fuel poverty. CHC are fully in support of the principle that Sustainable Development is the right path for the future wellbeing of the people of Wales and we believe that the duty set out in the white paper sets out a basic framework for a way forward for the Welsh public service. CHC would stress however that it is vital that a clear distinction is made between organizations that provide a public service and organizations within the public sector. Our members, who are included in the list of organisations that are subject to the sustainable development duty, are 'not for profit' third sector organizations and not public sector bodies.

CHC recently supported the introduction of CO<sub>2</sub> savings of a 40% reduction in carbon dioxide emissions in our response to the Welsh Government's building regulations consultation and CHC are committed to reducing carbon and maintaining standards within the sector. However, whilst we broadly supported this, we also stressed that the economic implications of achieving this needed to be considered by asking what does 40% mean in terms in affordability, especially taking into account other financial impacts impacting on the sector including the regulations making automatic fire suppression systems compulsory in all new and converted domestic properties. The introduction of a 40% saving in CO<sub>2</sub> may well be a long-term measure although there must be certainty that the regulations would have no negative impact on the economy by making it more difficult to develop in Wales. These type of considerations must be taken into account when moving forward with embedding sustainable development as the central organising principle within organisations.

CHC welcomes the point made in the SD white paper, notably that there are different accountability arrangements for Registered Social Landlords and that there should be consideration of arrangements for these bodies to ensure there is a consistent approach to scrutiny across the organisations subject to the duty. CHC would be happy to discuss this further. Regarding the reporting mechanisms, CHC believes that this should be done through RSL's existing reporting arrangements with Welsh Government rather than creating a new reporting regime / structure. Existing reporting mechanisms for RSLs are robust and outcome focused. Furthermore, we agree that creating an obligation to demonstrate compliance through existing reporting arrangements is the right way to go about it by drawing on evidence that reflects economic, social, environmental and long term aspects. More detail and assurance is needed that this will allow for a clear picture to emerge, across all organisations subject to the duty, of progress towards becoming a sustainable nation.

Community Housing Cymru Group Members:  
Aelodau Grŵp Cartrefi Cymunedol Cymru:

We are concerned however that there is still a distinct lack of detail about how organisations might go about embedding SD as their central organising principle and translating this into actions that fully realise the principles in a measurable and clearly defined manner. We are particularly concerned that the metrics for measuring social and environmental development are unclear or poorly understood by many and that the metrics that are in use do not stack up clearly as having equal weight to economic/financial considerations. We believe that adherence to GVA as the preferred (indeed only) economic measure will continue to undervalue other important SD values and is itself not a useful indicator of progress towards becoming a sustainable nation.

We accept that the range of organisations that will become subject to the duty does not readily allow for a single assessment process but we need to know more about how one assessment method can compare with others. The benefits we see from this are that all organisations will be better able to learn from the achievements and difficulties of others. CHC welcomes the point made that the duty is not about creating an extra layer of bureaucracy or imposing extra burdens but putting in place a better governance framework for Wales founded on sustainable development principles. At the same time, it is important that the legislation doesn't just focus on governance processes but must also specify desired outcomes, such as a sustainable Wales.

## 2. What are your views on the proposals for an independent sustainable development body?

Regarding the creation of a new independent sustainable development body to support the rolling out of SD (building on the sustainable development commission and Cynnal Cymru), we believe that the principles outlined, including independence from WG as outlined by statute are reasonable, although it remains unclear how this body will be funded. Preferably, the body would be funded through existing resources.

When required the body should be able to criticise WG and the bodies on which the duty will be placed. However in the past, too much criticism inevitably leads to a pinch on resources. How in this instance are the budgets of this "relatively small" body going to be guaranteed / protected? The body must be adequately resourced, with staff able to support a significant programme of work including policy development, research and support for the public service in developing effective sustainable development schemes. The role of the SD body and the auditors will be crucial in providing some kind of performance benchmarks. Without these performance benchmarks, it may well become very difficult for many senior staff to understand and know what it is they actually need to do to prepare for being subject to the SD duty.

We believe that the most useful function of the proposed new body and the one which will differentiate it from other sources will be the sole concentration on Wales and the unique legislative background against which we operate. If the new body can sort through the often confusing raft of generally available information and be a clear and relevant information hub, then it can add value here. We are concerned that there are currently a great many sources of information on SD and the practical measures that organisations can take to become more sustainable. These are reinforced by an ever-growing body of regulation and legislation. The proposed new body has a very small window of opportunity in which to make itself relevant, useful and credible.

**Community Housing Cymru Group Members:**  
**Aelodau Grŵp Cartrefi Cymunedol Cymru:**

**3. What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body?**

We support the suggestion that the body be established as soon as possible. We also want to ensure that the body is readily available to organisations that do not become subject to the duty until later in the implementation process. It would also be useful if the body were able to provide clear guidance to private sector companies as this will help to ensure that the many private sector companies we work with who operate in Wales and the wider UK market understand and can support our drive to develop sustainably.

**4. What are your views on the proposals to improve the accountability framework for sustainable development in Wales?**

Please see the comments above

**Community Housing Cymru Group**  
**04/03/13**

**Community Housing Cymru Group Members:**  
**Aelodau Grŵp Cartrefi Cymunedol Cymru:**



**WALES  
CYMRU**

**RESPONSE TO:**

A Sustainable Wales Better Choices for a Better  
Future

Consultation on proposals for a Sustainable  
Development Bill

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## **Introduction**

The University and College Union (UCU) represents more than 7,000 academics, lecturers, trainers, instructors, researchers, managers, administrators, computer staff, librarians and postgraduates in universities, colleges, prisons, adult education and training organisations across Wales.

UCU Wales is a politically autonomous but integral part of UCU, the largest post-school union in the world: a force working for educators and education that employers and the government cannot ignore.

UCU Wales was formed on 1 June 2006 by the amalgamation of two strong partners - the Association of University Teachers (AUT) and NATFHE-the University & College Lecturers' Union - who shared a long history of defending and advancing educators' employment and professional interests.

UCU Wales welcomes the opportunity to respond to A Sustainable Wales Better Choices for a Better Future, Consultation on proposals for a Sustainable Development Bill.

UCU Wales welcomes the introduction of the Sustainable Development Bill. This Bill offers a real change and a demonstration of leadership that Sustainable Development should be at the heart of everything we do in Wales.

Trades unions have had a long history in Welsh workplaces and have campaigned on all three elements of sustainable development: Financial, unions have campaigned that economic forces should not have an inequitable effect on Welsh communities, socially; unions have championed for social justice in the workplace and in Wales as a whole and Environmentally, unions have long challenged poor environmental practices in Wales. UCU Wales is fully supportive of the One Wales, One Planet ideology behind this Bill.

### **Q.1 What are your views on proposals for a new duty to embed sustainable development as a central organising principle of selected organisations in Wales**

Embedding Sustainable Development as a central organising principle will require new approaches and knowledge. This in turn will require significant changes to the curriculum in the tertiary and school sector. The Bill should make it a requirement on the education sector to embed sustainability. Further and Higher Education institutions should report their progress in achieving this objective.

As one of the main trades unions in the sector UCU Wales will encourage our members to monitor progress on institutional performance. Progress on this will impact on the future employability of both staff and students as well as meeting new legal requirements. For this reason UCU Wales considers that there should be a legal duty to consult staff and recognised trades unions on how public sector organisations intend to implement the principle.

Given that there is already a duty that all public bodies should have a sustainable developmental management system in place, this White Paper offers the chance to embed all layers of staff in the decision making process. The Sustainable Development Act should place a duty on the identified public sector bodies to:

- Automatically recognise Union Green Reps (UGR)
- Give additional facility time for the role
- Promote a proactive cooperation between UGRs and senior management

This can offer a number of advantages:

- Promoting ideas from within all parts of the organisation, by involving (UGRs) those who do the work at the front line of the organisation.
- Smoother transition of necessary changes that may need to be implemented, thus reducing costly industrial conflict.
- Furthering the education of the workforce on environmental issues and the workplace. Behavioural change can lead to the most significant changes and savings.
- All Public Bodies already have systems in place for consultation and co-operation between different levels of decision-making and unions with collective bargaining recognition, thus reducing the need for replicating expensive negotiation bodies.
- Energy, waste and water savings in the Public Sector may bring down the costs of running the service.

Trades Unions have already been organising around sustainable developmental issues for a number of years. The role of the Union Green Rep is now an established role with recognised functions such as, environmental auditing, engaging with the employers, educating the workforce and working with local communities.

Many public bodies already have environmental committees with union representation on them. A number of organisations have coordinated their health & safety duties with their environmental commitments to produce a combined approach with shared objectives by working towards, both ISO 14001 and ISO 18001.

The UGR works closely with other union representatives such as health & safety reps, ensuring that sustainable changes do not endanger the workforce. UGRs work with union learning reps to organise training on environmental issues, including: saving energy at home, local shopping, recycling and waste reduction and eco friendly transport options.

Unions are able to offer free training, advice and support for the UGRs. The TUC Cymru Green Reps course is accredited through Agored Cymru and can be delivered through TUC centres or in the workplace. The TUC and its affiliate unions have already produced a wealth of information and training material including: case studies, best practice, guides to environmental legislation and tools for surveying the workforce and auditing materials.

Nationally, the TUC are working with the European Trades Union Institute on the Green Workplaces Project to help develop a common approach to tackling climate change and reducing the carbon footprint of European workplaces. Five projects are already set up in England with both the public and private sectors including Harlow District Council, ACAS and HMRC Euston Tower London plus others. The TUC have also run highly successful projects in the past including Great Ormond Street Hospital for Children London, the National Museum Liverpool and Leicester City Council.

A brewery in Wales, InBev Magor has already shown what can be achieved through the use of UGRs and a collective approach. In the last three years, the company has saved over £2 million in bills from initiatives suggested by the workforce. The majority of these were low investment, behavioural changes. Since the start of the project, InBev have reduced their water consumption by 46% and their electricity usage by 49%.

The InBev workforce are not especially environmentally aware and nor did they join the project because they wanted the savings for themselves. The workers participated while it was run and promoted primarily through the UGRs and could see the benefits it would have upon not only their own lives but that of their children and grandchildren too. They are currently working with local businesses in the area in sharing best practice and innovation.

## **Q.2 What are your views on the proposals for an independent sustainable development body?**

An independent sustainable development body is essential to the success of public sector organisations fully embracing the ideals of the White Paper. The body should have the ability to inform advice and offer guidance with best practice. However the Commissioner should also have the right to inspect the Welsh Audit Office arrangements to satisfy their independence. The Commissioner should also offer reports to the Wales Audit Office to ensure proficiency. The body should reflect the stakeholders in the affected public bodies. Reference should be made that all members of the body share an equal position to ensure non-bias.

The introduction of all major stakeholders in the membership of the body will offer positives such as:

- Transparency for all concerned
- Take account of all stakeholder interests
- Provide an equitable and social balance within the membership of the body
- Smooth transitions of necessary changes within organisations (reduced expensive consultations as each member can report back to his/her own stakeholder).
- Fully democratic
- Embed best practice from all stakeholders



Transparency within all independent bodies is crucial to maintain a credible service. Any body that provides advice and guidance should hold the peoples trust by demonstrating it operates with everyone's best interest and not those of a minority. By including all major stakeholders in the independent body, scrutiny of other public sector organisations may perform without bias.

Union membership of the independent body will provide a structure, which involves a viewpoint from those who may be affected. All of the organisations that would be subject to the duty already have collective bargaining agreements with trade unions. Trade union membership can also call up on expertise from European and International partners such as ETUI, ILO, ITUC.

**Q.3 What are your views on the proposed phasing and implementation of the duty including the timing of the establishment of the independent sustainable development body?**

The implementation of the duty to be spread out over three years lays a clear path for all concerned. While the White Paper does acknowledge that a number of organisations have started to embed Sustainable Development, the implementation should set a deadline for all, of 2015. A provision may be made that any organisation that will not be able to reach the deadline should be able to request an extension by the Commissioner. Organisations should also have sufficient time to communicate with one another in order to reach common and achievable goals. The Library of Wales may discuss common procurement practices with other bodies in the immediate vicinity such as further and higher education institutions.

**Q.4 What are your views on the proposals to improve the accountability framework for sustainable development in Wales?**

The full disclosure of sustainable developmental auditing including records of long term planning should be provided for audit. Auditors should have access to all members of any organisational committee to ensure transparency. This could be set out in the Code of Audit. As in 5.9 the scrutiny need not be excessive however it should be suitable and sufficient.

**ENDS**



## **Wales International Development Hub & the Welsh Centre for International Affairs**

### **Consultation Response to the White Paper on Proposals for the Sustainable Development Bill**

**4<sup>th</sup> March 2013**

Wales International Development Hub and the Welsh Centre for International Affairs welcome the opportunity to respond to the proposed Sustainable Development (SD) Bill as presented in the White Paper by the Welsh Government. We recognise that this piece of legislation is not only an opportunity, but also a challenge for the WG to set out a table of action for how to affect Wales' environmental, economic and social actions to achieve sustainable development.

The Hub and WCIA (hereafter, we) see Sustainable Development as the only means of achieving a way of life capable of being continued indefinitely by all of earth's people while respecting environmental limits. This Bill presents the opportunity to be at the forefront to meet the changes facing us. We feel the Bill must represent a step change in the way policies are implemented to achieve SD. This legislation offers the opportunity to enshrine sustainable outcomes, not just governance processes in Welsh legislation.

Both action orientated outcomes and the governance to support it are necessary if the SD Bill is to meet the political ambition which inspired it and civil society appetite which supports it. Therefore it is our view that the current proposals are insufficient to deliver what is necessary to tackle the long term future for Wales. As part of an Alliance of third sector organisations representing a broad range of social, cultural, environmental and international development issues, we are working collaboratively to support the development of a draft Bill which, we believe through the application of such simple and clear legislation, can deliver policy outcomes to achieve that ambition. We will continue to work on drafting the elements of the Bill and hope this will assist the Welsh Government in its progress and open further dialogue with civil society. Therefore, elements of this position paper have been developed in conversation with members of the Alliance.

## **Qu 1. What are your views on the proposals for a new duty to embed sustainable development as the central organising principle to selected organisations in Wales?**

We welcome the Welsh Government's commitment to **improve the governance** for sustainable development in Wales. This aligns with *The Future We Want* (the declaration by 193 UN member states following the Rio+20 Conference on Sustainable Development), which emphasised the need for strengthening the institutional framework for, and integrating the three dimensions of sustainable development in decision making. However, *The Future We Want* states:

*The strengthening and reform of the institutional framework should not be an end in itself but a means to achieve sustainable development.*<sup>1</sup>

What the white paper currently presents is a governance framework for sustainable development, which due to the level of its intended scope will not be wide or deep enough to impact upon decisions that will achieve sustainable development outcomes.

**We believe that sustainable development is the only viable route to a thriving and healthy future for the world.** This legislation offers Wales the opportunity to lead the way in tackling changes which will inevitably happen in the years ahead to meet the problems the world is facing. **This legislation is vital to drive the changes required**, if we are to become a more sustainable nation, practising sustainable development.

**Strong legislation is needed to address the status quo. Currently, the application of the aims and principles of SD as a central organising principle is mixed within and across public office.** This need has been openly demonstrated in several reports evaluating the efficacy of progress towards embedding SD in decision making and in policy making. Firstly, ten years after the Assembly was formed with a duty to 'promote SD' these reports were produced by the Auditor General who concluded that SD was not embedded in Government decision making and recommended that the Government should:

*Embed sustainable development in ... [its] governance procedures, financial planning, core business planning processes, change programmes and human resources processes.*<sup>2</sup>

The second report, produced by Dr Alan Netherwood for WWF Cymru<sup>3</sup>, investigated linkages between *One Wales: One Planet* and actual policy making and outcomes across departments. The results echoed the findings of the Auditor General's report, confirming the issues of the incredibly mixed application of the aims and principles of *One Wales: One Planet*. A further report investigated the Road to Rio of organisations in Wales. Its **conclusions highlight that the Welsh Local Authorities**

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<sup>1</sup> UN 2012, *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

<sup>2</sup> Auditor General for Wales, Sustainable development and business decision making in the Welsh Assembly Government. 2010, Wales Audit Office

<sup>3</sup> Netherwood, A. Progress in embedding the 'One Planet' aspiration in Welsh Government. 2011. WWF

could be said to have lost their way on SD since 2000, having made SD ideas mainstream but become less ambitious.<sup>4</sup>

The Welsh Government's approach as presented in the White Paper will not lead to an actions-and-results orientated approach (as recommended by Rio + 20) as it is currently based within high level decisions rather than identified objectives, activities and outputs. One of Rio's recommendations for strengthening the institutional framework is that SD activity should:

*Be based on an action- and result-orientated approach giving due regard to all relevant cross-cutting issues with the aim to contribute to the implementation of sustainable development.*<sup>5</sup>

If we are to become a sustainable nation, practising sustainable development, **the legislation tabled by WG should deal with the limitations identified by these reports, and embrace the recommendation from Rio, to prepare Wales for the future.** The reality for Wales is a future within a resource-constrained world, with the potential for increased global tensions and inequalities, where resource-efficient economies will be an absolute necessary. The Bill needs to express what a positive outcome for SD looks like to mobilise an action- and-result-orientated approach, rather than the principles by which decisions are taken at different levels.

### **The Scope of the Duty**

**To address this, the duty should be substantially stronger than the present duty.** Currently, Section 79 of the Government of Wales Act 2006 (GOWA 2006) states that Welsh Ministers "*must make a scheme ("the sustainable development scheme") setting out how they propose, in the exercise of their functions, to promote sustainable development.*" **We fear that the White paper's proposal that decisions are taken with 'consideration' of SD would weaken, not strengthen the duty.** The constitutional changes brought about by the GOWA should not be seen as exonerating the Assembly from responsibility for this duty.

We do not believe it is appropriate that the duty applies to the Welsh Government alone. To achieve real change, organisations and individuals must take on and engage with the SD Bill and it should set out a developmental agenda. Therefore, we believe, **the current duty should be strengthened and extended to other organisations in the wider public sector.** To meet the existing shortcomings as identified by the Auditor General and evidenced in the gap between policy and practice, in addition to producing different, more sustainable outcomes for Wales, **then most of the functions of the public bodies must be subject to the duty.** Leading lawyers are clear that a 'substantive duty' is required to be put in place. This could be achieved by wording<sup>6</sup> the duty along the lines of: **'Welsh Government and public bodies must exercise their powers and functions in order to achieve sustainable development'**.

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<sup>4</sup> Netherwood, A and Flynn, A: What can an Earth Summit do for Wales?.2012 WWF

<sup>5</sup> UN 2012, *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

<sup>6</sup> Alliance partners have been working constructively to develop alternative formulations which could strengthen the existing powers. Some of the key elements which we feel would be effective have been included in their draft form within this consultation response.

**The White Paper lacks clarity or a specific proposal on how the Government and Public sector exercise their duties for SD.** While the White Paper focuses on governance processes, it excludes specifying the desired outcomes which would be features of a truly sustainable Wales. We fear that the intention to strengthen the duty via amending the GOWA, implies the removal of the obligation to make a scheme or strategy. This, coupled with the articulation in the White Paper confirming the exclusion of operational decision making, specifically procurement, from the scope of the legislation, weakens the present duty.

**The duty should explicitly recognise and give regard to the international impacts of Wales.** For example, supply chains for Welsh public and private sectors – in terms of carbon intensity, food security, land management and labour conditions. While the White Paper recognises the need to take account of global impacts, the commitment is weakened by saying it will be done in a “reasonable and proportionate” manner. **Global impacts, such as those identified above, should always be considered and only disregarded if there is ‘unreasonable and disproportionate’ impact on Wales by doing so.**

The Bill should therefore require Welsh Government Ministers and the devolved public sector (including local authorities and WG sponsored bodies) to exercise their duties so as to achieve SD. The Ministers could publish guidance on how to comply with the duty and public authorities must have a regard to any guidance published by the ministers when complying with the duty.

**Legislation should clarify for the public sector what their duty is in relation to SD.** What is meant by SD should not be questioned once the legislation is published, and should be clarified and stated within the legislation through a definition.

### **The definition of Sustainable Development**

In addition to a strong and stronger duty, we consider it **vital that the bill contains a clear definition on the meaning of SD**, rather than leave it open to interpretation or further guidance. It must be meaningful and accessible enough to guide the direction of effective action, rather than leaving its interpretation to further guidance, officials or the courts. While we welcome the White Paper’s proposal that there should be a definition as well as further guidance on the definition, it is not possible to assess it within this consultation response as there is no detail provided.

We consider that the definition must clearly articulate that **the implications of Welsh SD policy do not end in Wales, but that within today’s globalised world, the implications extend globally.** So while the wellbeing of people in Wales is an aim of the legislation, it should not be its sole aim.

To give meaning to SD, we suggest the following wording for the definition:

*Sustainable development means meeting the economic, social, cultural and environmental needs of people and communities without compromising the ability of future generations to meet their own needs and includes the application of the following principles:*

*(i) living within environmental limits;*

- (ii) *using natural resources prudently*<sup>7</sup>;
- (iii) *ensuring a strong, healthy and just society*;
- (iv) *achieving a sustainable economy*;
- (v) *applying the preventative, precautionary and polluter pays principles*;
- (vi) *using sound science responsibly*;
- (vii) *promoting good governance*;
- (viii) *avoiding adverse international impacts; and ensuring that the people of Wales use only their fair share of the world's resources.*
- (ix) *sustaining and promoting Welsh language and heritage.*

### **In depth case for the inclusion of procurement within the scope of the duty**

In addition we strongly believe, based on evidence, **that to achieve the intended effect of outcomes, procurement and budget considerations need to be included specifically within the scope of the duty.** The white paper states (2.26) that the duty excludes procurement and budgetary planning, as it will be affected by the trickle down from sustainable development within strategic decision making. Our experience and gathered evidence suggests that for a number of reasons this will not happen, and therefore Welsh Government's position appears to be an assumption not backed by evidence.

The assumption in the white paper is that high level decisions and principles trickle down from strategic level to operational decisions and therefore there is no need to have procurement in the duty. This proposition has already been questioned within the Welsh Audit Office Report 2010.

*If sustainable development is to adequately shape the Assembly Government's business decision making, key decisions should effectively integrate social, economic and environmental considerations, to improve wellbeing now and in the future. Sustainable development principles have not been consistently embedded in the Assembly Government's strategic and operational decision making. The Government of Wales Act 2006 commits the Assembly Government to ensuring that all its funding works for sustainable development. However, **sustainable development is not driving resource allocation nor is it integrated into all financial and business planning processes.** The Assembly Government has not ensured that all its grant giving underpins its vision of a sustainable future.<sup>8</sup>*

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<sup>7</sup> As featured in New Zealand's Resource Management Act (1991)

<sup>8</sup> **Welsh Audit Office** (WAO), (21<sup>st</sup> January 2010), 'Sustainable development and business decision making in the Welsh Assembly Government', page 11.

[http://www.wao.gov.uk/assets/englishdocuments/Sustainable\\_Development\\_english.pdf](http://www.wao.gov.uk/assets/englishdocuments/Sustainable_Development_english.pdf)

This demonstrates that having a sustainable development duty at a high level decision making does not affect resource allocation and lead to sustainable outcomes. To address this lack of outcomes, one of the Welsh Audit Office’s main recommendations is to:

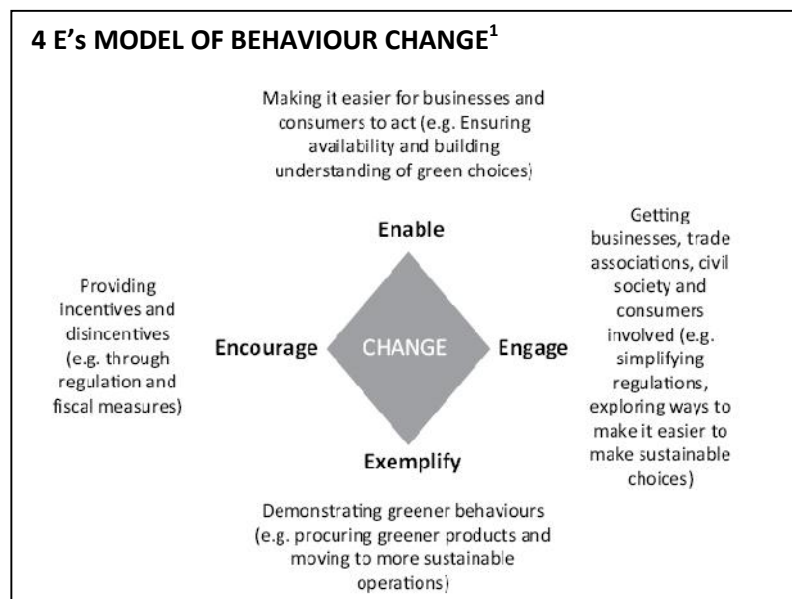
*Embed sustainable development in the Assembly Government’s governance procedures, financial planning, core business planning processes, change programmes and human resources processes.*<sup>9</sup>

Currently, the proposals only target strategic decisions, and not operational decisions.

We welcome the proposed improvement of governance procedures as laid out in the White Paper, however, **as this review shows, it takes more than governance structures to embed sustainable development as a central organising principle.** Therefore, as well as the government’s proposed duty to affect high level decision making, it also needs to explicitly include operational activities including financial and core business planning, and therefore procurement. In the Welsh Government’s Programme for Government (2011) there was a commitment to “Embed social, economic and environmental objectives into all of our activities to achieve the aims of One Wales: One Planet.” If the Welsh Government is not legislating in a way which enables this, i.e. the inclusion of financial and business planning, then questions remain as to how the Welsh Government intends to achieve this commitment.

In your initial consultation for the Sustainable Development Bill, the Welsh Government outlined its proposals based around the 4 E’s model of behaviour change (*Enable, Engage, Exemplify, Encourage*). Without including procurement in the scope of the duty, the Welsh Government is failing to provide the **Encouraging** framework through this legislation which would provide the steer to procurement officers to use their procurement processes to support sustainable development outcomes. Regulation is the final cornerstone of the 4 E’s approach to behaviour change. Without regulation, Value Wales’ work will lack the gravitas to provoke a change in current procurement practice.

EU procurement legislation currently provides scope for social and environmental criteria during the tendering process in a transparent way and further clarity is anticipated through the EU procurement directive in Spring 2013. Within Wales, procurement officers interpret this guidance in a most conservative way.



<sup>9</sup> WAO 2010, page 13

Research undertaken at Cardiff University by Professor Morgan, which has been discussed and reported on by the National Assembly of Wales<sup>10</sup>; has shown that some procurement officers do not have the confidence, capacity, creativity or the competence needed to tender, score and award contracts transparently using sustainable criteria to delivery horizontal policies through procurement.

Two recent high-profile reports into Welsh public procurement highlight the need for legislation in order to implement changes in procurement practice.

The influential *Barriers to Procurement Opportunity Research*<sup>11</sup> made a number of practical recommendations to remove barriers to engagement with procurement in Wales. Crucially, the report recognised that successfully implementing recommendations about improving procurement practice requires commitment, effort and political will. The report gives the example of Ireland, where political will manifested itself in the form of legislation. Legislative powers regarding procurement were introduced to enable the Auditor General to investigate procurement practices of public bodies, and report on their compliance with procedures. The report states that this is a way of ensuring procurement compliance and transparency are given high profile and that accountability and priority of procurement processes are visible at the highest organisational level.

More recently, the McClelland Review, *Maximising the Impact of Welsh Procurement Policy*<sup>12</sup>, found that implementation of procurement policy was still lacking across Wales. He concluded that while policy development was outstanding;

*policy acceptance, deployment and implementation is not consistent across the public sector and although there are exemplar organisations there are lagging in embracing and implementing Welsh Government policy.*

To address this, McClelland recommends:

*Given that further progress is highly dependent upon practical implementation, rather than on new policy, implementation of public procurement policy should be regarded as a duty rather than an option.*

McClelland recommends first mandating procurement policy through grant conditions; then through making the duty to adopt and implement policy a legal requirement.

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<sup>10</sup> **National Assembly for Wales**, Enterprise and Business Committee, (May 2012), 'Influencing the Modernisation of EU Procurement Policy', <http://www.assemblywales.org/bus-home/bus-business-fourth-assembly-laid-docs/cr-ld8904-e.pdf?langoption=3&ttl=CR-LD8904%20-%20Report%20by%20the%20Enterprise%20and%20Business%20Committee%20on%20influencing%20the%20modernisation%20of%20European%20procurement%20policy>, page 10

<sup>11</sup> **Welsh Government**, Value Wales (March 2009), 'Barriers to Procurement Opportunity Research', <http://wales.gov.uk/docs/dpsp/publications/valuewales/barrierstoprourementopportunity/090520barrierstoprourement2en.pdf>

<sup>12</sup> **John F McClelland CBE**, for Welsh Government, Value Wales (August 2012), 'Maximising the Impact of Welsh Procurement Policy', <http://wales.gov.uk/docs/dpsp/publications/valuewales/120917mcclellandreviewfullfinal.pdf>



The evidence of these research reports into public procurement in Wales suggest that without an explicit legal requirement, it is unlikely that good-practice procurement policy will be implemented, that practice will remain inconsistent across the Welsh public sector, and that current good practice may not be sustained.

*If* the legislation included procurement, it would **Encourage** procurement officers, and this mandate will be carried forward through the work of Value Wales to **Engage, Exemplify** best practice and **Enable** the workforce across Wales. The current momentum and work of Value Wales to *Enable* and *Engage* Procurement Officers regarding Sustainable procurement is arguably not sufficient to deliver the outcomes anticipated by the Welsh Government.

Moreover, the benefit of making procurement decisions specifically subject to considerations of environmental, social and economic wellbeing also has the potential to have substantial impact beyond the public sector, through the positive knock-on effect on the supply chain. Such a commitment would issue a powerful statement that doing business in Wales means adopting a sustainable development approach to delivering public services, goods and works contracts.

We commend the recognition of the international scope (2.15) within the duty, however there is no detail of how this would be recognised and embedded within high-level decision making. It is our belief that procurement is the key way that this would be implemented; in our globalised world, the supply chains which provide our catering products, clothing and ICT equipment can undermine each of Rio's principles for sustainable development. And as a Fair Trade Nation, at a minimum, fair trade is an essential key component of catering and clothing contracts.

Without the inclusion of procurement in the scope of the duty, there is no clear join up between the intended international aspect of the duty and the procurement mechanisms which are vital to deliver international elements within Wales' sustainable development duty.

Beyond that, it is worth highlighting that many of the respondents to Q7 discussing organisational internal operations suggested that procurement should be one of the operations to be included as part of the duty because procurement is very important in dictating whether or not money and resources are used in a sustainable way.<sup>13</sup>

## **Qu 2. What are your views on the proposals for an independent sustainable development body?**

**We support the principle of having a Commissioner (or body) for Sustainable Development.**

The level of independence for the Commissioner is currently unclear; we believe that to be effective and able to hold the WG and the public sector in Wales to account, **the Commissioner should be independent of Welsh Government; appointed and dismissed by the National Assembly for Wales.**

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<sup>13</sup> **Welsh Government**, (June 2012), Summary of Consultation Responses, <http://wales.gov.uk/docs/desh/consultation/121008sustdevbillconsultresponseen.pdf>

We welcome the Commissioner's role to promote the national principles of public engagement. The Commissioner will need to support and enable people and communities to participate in SD and its governance, including providing access to information.

However, this is nowhere near strong enough, and the Commissioner needs to give communities and individuals **the right to redress**; to have their problems investigated and resolved through judicial and administrative proceedings. The process of judicial and administrative proceedings has been highlighted in the Rio outcomes as essential to the promotion of Sustainable Development, and arguably in turn to achieving SD.

As articulated by Rio, broad participation and **access to information and judicial and administrative proceedings** are essential to the promotion of sustainable development and are an important accountability mechanism. In addition, SD requires the meaningful involvement and active participation of regional, national and sub-national legislatures and judiciaries. Therefore, the right to redress is an important element of this Bill.

**We believe that fears over extensive judicial reviews are overstated.** Judicial review is an important accountability mechanism and, in most cases, such reviews are unlikely to be supported by judges, as *"The more the legislation concerns matters of broad social policy the less ready will be a court to intervene"*<sup>14</sup>. In addition, if the Commissioner is equipped with powers to investigate and take action on failures to comply, then JR is unlikely to be a successful method as alternative options are in place through an accountability mechanism.

We welcome the fact the commissioner will **be an advocate for future generations**, people in developing countries and those living in poverty in Wales who will be impacted upon by unsustainable development. As suggested as necessary by the Welsh Audit report in 2010, the commissioner should *"identify policy conflicts at an early stage"*<sup>15</sup>. The Commissioner should therefore be required and empowered to 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.**

Suggested wording to address these considerations could be:

*The National Assembly for Wales shall appoint a Sustainable Development Commissioner for Wales. The Sustainable Development Commissioner for Wales may—*

*(i) provide and publish advice on matters relating to the implementation and enforcement of the Sustainable Development Duty;*

*(ii) conduct research and inquiries into matters which the Commissioner considers relevant to sustainable development or the Sustainable Development Duty;*

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<sup>14</sup> Lord Nicholls in *Wilson v Secretary of State for Trade and Industry* [2004] 1 AC 816 at [70]

<sup>15</sup> WAO 2010, page13.

[http://www.wao.gov.uk/assets/englishdocuments/Sustainable\\_Development\\_english.pdf](http://www.wao.gov.uk/assets/englishdocuments/Sustainable_Development_english.pdf)

*(iii) make recommendations to public bodies, including Ministers and the National Assembly for Wales in respect of the discharge of their duties under this Act;*

*(iv) Eligible persons may make complaints to the Commissioner in relation to any matter concerning discharge of the Sustainable Development Duty by public authorities.*

*(v) The Minister may make regulations concerning complaints which may be made to the Commissioner.*

*(vi) The regulations may contain provision concerning (but not limited to):*

*(a) persons who are eligible to make complaints;*

*(b) the time frame within which complaints must be made;*

*(c) the procedure which the Commissioner must follow when handling and determining complaints; and*

*(d) the sanctions which the Commissioner may impose following determination.*

### **Qu 3. What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable body?**

Rio calls for action to achieve SD. We therefore call for the Bill to provide a clear roadmap for moving from this governance focused duty, to a full SD strategy in which activities for implementation are methodically set out and which explain how progress will be measured in this regard. This will also articulate how decision makers would be held to account.

For example, how the SD will:

- 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; and
- Deliver public services which meet the needs of the citizens of Wales.

If the SD Bill called for actions such as these, it would be necessary to phase the implementation of the duty.

#### **Regarding procurement:**

In WLGA previous response to the consultation, they talk about progressive inclusion starting at high level and then moving into other areas such as procurement. Although we argue, alongside the Welsh Audit Office, that procurement needs to be included within the duty to deliver sustainable outcomes in Wales, we recognise the option of phasing the inclusion of procurement in the

implementation of the duty. This would enable Value Wales to support Welsh Public Offices through capacity building (*Enable, Exemplify and Engage*) ready for the implementation of the regulation.

#### **Qu 4 What are your views on the proposals to improve the accountability framework for sustainable development in Wales?**

Another key principle for the institutional framework for SD from the outcomes document from Rio+20 was that:

*We also reaffirm that the framework should be inclusive, **transparent and effective** and that it should find common solutions related to global challenges to sustainable development.*<sup>16</sup>

As highlighted in the consultation responses, **people felt that the duty on high level decision making would not be transparent or easy to monitor**. In particular, published responses to Q11 regarding designated sustainable behaviours that would influence high level decisions, respondents argued the biggest problem with this approach is the difficulty that would be associated with the measurement and auditing of performance and the subsequent enforcement.

**We also agree with the majority of respondents who felt that it would be too easy for organisations to manipulate their behaviours to show compliance without changing a huge amount in the way they make their decisions.** A number of respondents said that the behaviours would be too vague to prescribe in law and would invite frequent legal challenge as a result of their subjective nature. This therefore throws into question the transparency and effectiveness of the Welsh Governments proposed institutional framework. Transparency and ease of monitoring are key aspects of the Rio+20 proposed framework for best practice in sustainable development.

We propose that there be a much more immediate timetable for reporting connected closely with SD outcomes. We make the following suggestion for wording based upon Planning Policy Wales experience of measuring our ecological footprint.

- i. The Commissioner (or National Assembly for Wales) must publish no later than 31 January each year a report setting out the use of resources in Wales during the relevant period.
- ii. [The reference to the use of resources in subsection (i) includes the use of resources in connection with goods and services imported into Wales during the relevant period.]
- iii. Each report must address use of the following resources –
  - (a) land;
  - (b) materials;
  - (c) water; and
  - (d) climate.
- iv. The use of land shall be measured by reference to the total number of hectares.
- v. The use of materials shall be measured in tonnage, including sub-totals of the tonnage of biological and mineral materials used.

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<sup>16</sup> UN 2012, *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

- vi. The use of water shall be measured in litres.
- vii. The use of climate shall be measured in tonnes of CO2 equivalent.

**Qu 5 We have asked four specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.**

We recognise and commend the Welsh Governments past and continued commitments to development aspects of sustainable development, and we feel in order to further facilitate this, a **legal commitment in the SD bill towards international alignment would be advantageous**. For example, articulating a continued commitment to internationally agreed development goals, including the MDGs and forthcoming Sustainable Development Goals.

Throughout *The Future We Want* document, a number of references are made to a commitment to Africa's development and wider internationally agreed development goals:

*We reaffirm our commitment to make every effort to accelerate the achievement of the internationally agreed development goals, including the Millennium Development Goals by 2015.*<sup>17</sup>

Therefore, in order for Wales to align with *The Future We Want* the Bill needs to include recognition of international compacts; specifically, provide a foundation upon which it would be possible to embed action towards the developing Sustainable Development Goals at a Welsh level.

Acknowledge **climate change** within the bill. We continue to support the commitment of the international community to support Africa's sustainable development. In Wales we continue to do this through the support of the Wales for Africa programme and building the capacity of Wales' international third sector.

Acknowledging **the cultural diversity of the World** and recognise that all cultures and civilisations can contribute to sustainable development. In Wales this translates to recognising the importance of the **welsh language**.

**Climate change** is recognised as an explicit threat to SD within the Rio+20 document *The Future We Want* and that combating climate change requires urgent and ambitious action. We therefore recommend that climate change targets for public sector should be set within the SD Bill. In the climate change committee report<sup>18</sup>, the panel recommended that the Welsh Government use legislative programmes to **set carbon reduction targets in law**:

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<sup>17</sup> UN 2012, *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

<sup>18</sup> Climate Change Committee Report, 2013, UK

<http://www.cynnalcyrmru.com/sites/default/files/CCCW%20FINAL%20report%20ENG%20130215.pdf>

*There is an opportunity to explore further how a duty on public bodies could be incorporated within the SD bill and or the forthcoming environment bill to include how public bodies contribute to the government's emission reduction targets and adaptation objectives.*

An example of how to do this has been articulated in the answer to question 4 above. *One Wales: One Planet* sets out an ambition for Wales to use its fair share of the Earth's resources. The vision states that within a generation, our ecological footprint is reduced to the global average availability of resources - 1.88 global hectares per person. The current footprint shows that, if everyone on the Earth lived as we do, we would use 2.7 planets worth of resources. Reducing Wales' ecological footprint will require a large reduction in the total resources used to sustain our lifestyles. Setting carbon reduction targets in law would be a means to achieve this goal.

**Ends.**

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March 2013

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Dear Sir/Madam

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

### **1. Introduction**

The Campaign for National Parks (CNP) is the charity that campaigns to protect and promote National Parks in England and Wales as beautiful and inspirational places enjoyed and valued by all. It has been in existence for over 75 years. CNP's work in Wales is informed by CNP Cymru, which includes representatives from each of the National Park Societies and other bodies such as CPRW and the National Association of AONBs. The National Park Authorities in Wales and National Parks Wales have observer status.

National Parks are the finest landscapes which have been granted the highest level of protection. The statutory purposes of National Parks are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Parks
- To promote opportunities for the public understanding and enjoyment of the special qualities of the National Parks

In pursuing these purposes, National Park Authorities (NPAs) also have a statutory duty to foster the economic and social well-being of communities living within the National Park. In those cases where there is a conflict and reconciliation proves impossible, the first purpose should take precedence.

In responding to this consultation we have focused on the implications of the proposals for the long-term future of the protected landscapes (National Parks and AONBs) and associated seascapes of Wales.

In Wales, National Parks comprise about 20% of the country's land mass and therefore have a vital role to play in sustainable development. They already contribute significantly to the well-being of the nation, through protection of the landscape, wildlife and key environmental resources and services, like water provision and carbon storage in peat soils and forests, which can mitigate the effects of climate change. National Parks are inspiring spaces for people to enjoy and improve their health and well-being, whilst making a significant contribution to the economy of Wales through farming, tourism and other related businesses. CNP believes that the nationally designated landscapes of Wales should be maintained as distinctive and unique tracts of countryside, which are also adaptable and resilient to future pressures such as climate change. National Parks already make a significant contribution to the delivery of sustainable development and much of that success is attributable to the high quality of the landscape itself.

The success referred to in the previous paragraphs must be maintained and built upon and must not be put at risk by the changes proposed in the Sustainable Development Bill. To ensure that this happens it is essential that:

- The significance of protected landscapes is specifically emphasised in the proposed Bill as a key sustainable development factor; and
- The statutory framework within which they operate is maintained.

## **2. Our response to the consultation questions**

### **Question 1 – What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]**

We broadly support the intention to make sustainable development the central organising principle of the Welsh Government and public bodies in Wales, the principle of having a sustainable development duty and the creation of an independent sustainable development body for Wales. However, we have some concerns about how this new duty would work in practice, particularly with regard to the relationship between this duty and the statutory purposes of National Parks. Further details of our concerns are set out in response to question 2.

We particularly welcome the fact that the new duty will seek to influence both behaviours and objectives as both are crucial to achieving sustainable development. However, we believe that greater clarity is needed as to the level at which the duty will apply as the duty will only be effective if it operates through all levels of decision making at both a corporate/strategic level and a day-to-day operational level. It should also cover budgets and procurement.

### **Question 2 – What are your views on the proposals for an independent sustainable development body? [Chapter 3]**

We support the principle of an independent sustainable development body. However, we believe that there needs to be greater clarity about its relationship with National Parks and with Natural Resources Wales. In particular there is a need to address the powers it would have over decisions made by the bodies which are subject to the new duty or how much influence its representations would have over other decision-making bodies. For example, if a National Park Authority (NPA) made a decision about a National Park which the sustainable development body viewed to be incompatible with the sustainable development duty would the NPA be required to



change their position even if the outcome was a decision that did not comply with the statutory purposes of National Parks? It is important to bear in mind that NPAs already have a duty to foster social and economic well-being of local communities as well as their duties relating to the natural environment so they are already taking account of sustainable development in their decision-making and we would not want to see the creation of this new body weaken the protection provided to National Parks.

It is also essential that the body is adequately resourced and is totally independent of Government. One way of ensuring that the body is independent but still accountable would be for the Assembly to take on the role of approving the work programme which is proposed for Ministers.

To undertake its role effectively the body must be able to scrutinise the activities of Government, the private sector and the third sector as well as public sector organisations.

**Question 3 – What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]**

The phasing and implementation timescales seem reasonable, as this should allow public bodies time to prepare, and for experience and good practice to be gathered and disseminated in preparation for implementing the duty.

**Question 4 – What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]**

It is essential that the accountability framework is set up with clear indicators of success which can only happen if there is a clear agreed definition of, and outcomes for, sustainable development from the outset (see q5 for further information on our views about a definition). There needs to be a clear mechanism for measuring success against these indicators to ensure that the new duty is delivering sustainable development outcomes.

**Question 5 – We have asked four specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.**

We welcome the fact that the Welsh Government has decided to put a clear definition of sustainable development in the Bill. However, we are extremely concerned that the wording for such a definition is absent from the White Paper. There must be a clear and unambiguous definition of sustainable development in the legislation. This should include reference to living within environmental limits and give full recognition to the special qualities and particular vulnerabilities of protected landscapes. We are particularly concerned that the well-established concept of 'living within environmental limits' has been replaced by the more ambiguous concept of 'wellbeing'.

The section [paragraphs 2.16 – 2.18] on the definition seems to suggest that the Brundtland definition is favoured, though it is not entirely clear. Whilst we support the generality of that definition, we consider that it is too general and does not give a sufficiently clear idea of what sustainable development is about. We would, however,

favour the use of the Welsh Government's own definition set out in paragraph 1.9, i.e.

*“Sustainable development means enhancing the economic, social and environmental well-being of people and communities, achieving a better quality of life for our own and future generations in ways which:*

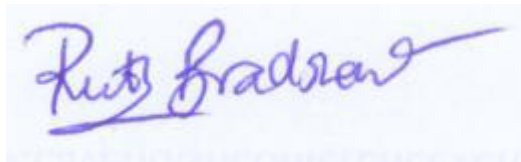
- promote social justice and equality of opportunity; and*
- enhance the natural and cultural environment and respect its limits – using our fair share of the earth's resources and sustaining our cultural legacy.*

*Sustainable development is the process by which we reach the goal of sustainability.”*

It manages to identify all the key elements of sustainable development in such a way as to give a sufficiently clear message on the face of the Bill as to its scope. It will still need interpretation and the statutory guidance will be crucial in doing that.

We trust that these comments will be helpful in the further development of a Sustainable Development Bill. We would be pleased to continue working with the Welsh Government and other partners as the plans for this Bill progress to ensure that National Parks can continue to play a key role in delivering sustainable development in Wales.

Yours sincerely



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## **Oxfam Cymru response to the consultation on proposals for a Sustainable Development Bill – WG17030**

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Oxfam Cymru welcomes proposals for a Sustainable Development Bill for Wales. The Bill provides an excellent opportunity to build on what Wales has already achieved, steering a clear path for the public sector in Wales and legislating for a step-change in the implementation of policies to achieve sustainable development.

It is clear that existing models of development in the UK are not only unsustainable but outmoded, outdated and have failed all but the few. Within Wales for example, we have significant inequalities in income and wealth, and in life chances and lifestyles, between individuals and communities. Despite decades of economic growth, regeneration and anti-poverty policies, many Welsh people face a life characterised by high mortality, economic inactivity, mental and physical ill health, poor educational attainment, and increasing exclusion.

On a global scale, much deeper inequalities of income, gender, and power mean that millions of people are living without access to sufficient resources. Nearly 900m people face hunger; 1.4 billion live on less than \$1.25 a day, and 2.7 billion have no access to clean cooking facilities. At the same time, environmental limits have already been crossed in terms of climate change, nitrogen use, and biodiversity loss.

The Sustainable Development Bill can help address inequalities at home and abroad and can help ensure existing generations leave a positive legacy for future generations. Oxfam Cymru is proud that Wales is seen as a world leader in sustainable development and we hope this is further augmented through a bold and strong piece of legislation to drive this agenda forward.

### **Q1: What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]**

#### **The Duty**

The new duty must be substantially stronger than the present SD Scheme and needs to go beyond producing a scheme, “having regard to” something, or making sustainable development merely a “central organising principle”. Every public authority must exercise their functions and powers to achieve sustainable development both within Wales and with regard to the impacts internationally.

We would expect the duty to lead to clear actions by the Welsh Government and the public sector in Wales, which would, for example:

- 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
- provide a supportive framework for Education for Sustainable Development and Global Citizenship (ESDGC) within Welsh education and learning
- clearly drive down unsustainable resource use
- address inequality and promote social justice

Although the duty only applies to the public sector in Wales, there is clearly a greater role for businesses – whether by paying taxes, increasing their employment of people further from the labour market, or by offering decent jobs in sustainable industries. Higher expectation needs to be placed on businesses to deliver sustainable development, particularly in return for the array of state support that businesses receive. As such, it is essential that procurement and budget considerations are included specifically within the scope of the duty. This will ensure that action is taken to reduce any negative impacts of Welsh public sector supply chains on sustainable development.

This thinking is supported by the Wales Audit Office. Their 2010 report on the embedding of sustainable development within Government concludes that sustainable development is not currently driving resource allocation and is not integrated into all financial planning i.e. Welsh Government grant giving and procurement does not underpin its vision for a sustainable future.

### **The central organising principle**

Oxfam Cymru is concerned that the Bill intends to measure success through improvements in the wellbeing of Wales ‘the Outcomes’. Improvements in the wellbeing of the people of Wales might be achieved through a sustainable development approach but striving for wellbeing will not automatically result in sustainable development. If sustainable development is effectively embedded the duty may result in some decisions actually compromising the wellbeing of existing generations of Welsh people in order to achieve sustainable development outcomes on an international level or for future generations.

The draft Bill contains no proposal for the Welsh Government or public sector organisations to exercise their duties for sustainable development. The legislation focuses on governance processes rather than specifying desired outcomes, such as a sustainable Wales.

### **Integration and working across boundaries**

The language used in the Bill is not strong enough to embed sustainable development in decision making processes. It is only proposed that economic, social and environmental

impacts are 'considered' as part of the public sector decision making process. This is not good enough.

- What about the impacts of decisions outside the borders of Wales?
- What about decisions that have a negative impact on sustainable development - how will these be prevented?
- How can civic society hold public bodies to account for their decision making?

## **Engagement and involvement**

There needs to be clear guidance on the need for adequate appraisal of decisions to ensure sustainable development is taken into account. Sustainability appraisals, for example have already been used extensively throughout Welsh Government and Local Government as a methodology for engaging with stakeholders and for assessing the impacts of decisions in a sustainable development context. A clear mechanism for appraisal provides an opportunity for members of the public to contest decisions that have a negative impact on sustainable development. The Welsh Government needs to provide clear guidance and support for the public sector on how best to evaluate decisions through a sustainable development lens. The Welsh Government could undertake an evaluation of existing appraisal tools and support development of such tools for use by the public sector. The public will need clarity on the decision making process in order to challenge it.

The requirement for the public sector to engage is not strong enough. There needs to be transparency in decision making. If there is inadequate engagement how can people influence decision making? The Sustainable Development Bill provides an excellent opportunity to engage civic society in a conversation on how we move forward in Wales and what really matters to the Welsh people. Through its work with communities, it is clear to Oxfam that the model of development that has dominated the UK for most of the last century is outdated and has failed to reduce poverty. Oxfam believes that in order to achieve sustainable livelihoods for all, the range of assets that are important to people must be recognised and taken into account at all levels of decision making. The Oxfam Humankind Index for Scotland provides an excellent example of participatory engagement <http://policy-practice.oxfam.org.uk/our-work/poverty-in-the-uk/humankind-index>

## **International Scope**

Oxfam Cymru welcomes the inclusion of a section within the Bill on the international scope. However, the Welsh Government needs to make it clear that international scope is central to sustainable development and not 'an important part of'. Looking to ensure that the international scope is encompassed in a 'reasonable and appropriate manner' is not good enough and open to wide interpretation. Failure to embed international scope within the Sustainable Development Bill dilutes the meaning and potential of sustainable development as a driving force for positive change and does not provide clear leadership for the rest of the public sector.

Oxfam Cymru suggests that global impacts should always be considered and only disregarded if there is an unreasonable and disproportionate impact on Wales by doing so.

## Defining sustainable development

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

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

The definition in One Wales One Planet, with reference to “*using only our fair share of the earth’s resources*” is a good start.

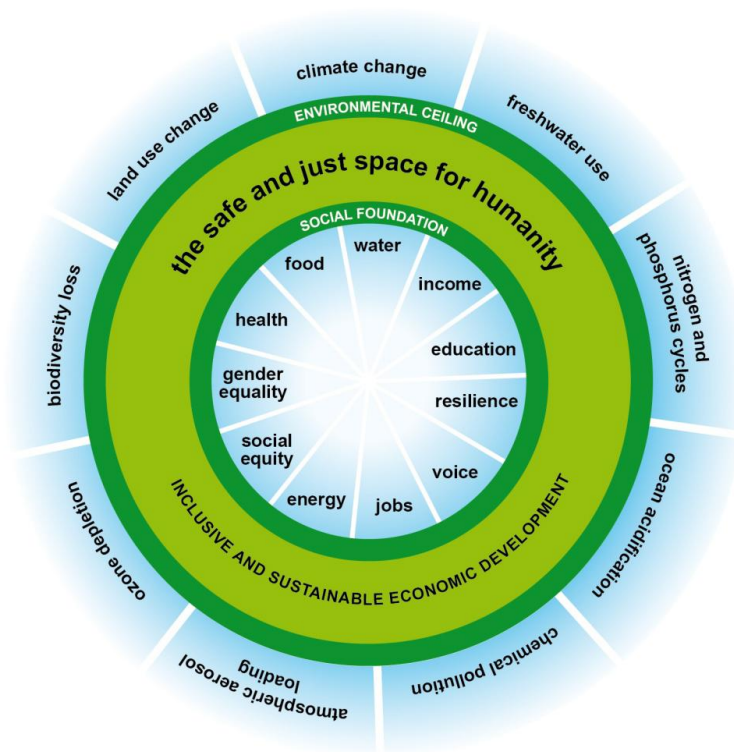
Oxfam has considerable expertise in the theoretical and practical development of frameworks for sustainable development. We would welcome further conversations on how the learning from Oxfam’s work may help in defining sustainable development and measuring progress in Wales.

For example, Oxfam’s discussion paper, A Safe and Just Space for Humanity <http://www.oxfam.org/sites/www.oxfam.org/files/dp-a-safe-and-just-space-for-humanity-130212-en.pdf> , states that:

*“Achieving sustainable development means ensuring that all people have the resources needed – such as food, water, health care, and energy – to fulfil their human rights. And it means ensuring that humanity’s use of natural resources does not stress critical Earth-system processes – by causing climate change or biodiversity loss, for example...”*

The paper also sets out a visual framework (see below) for sustainable development (shaped like a doughnut) by combining the concept of planetary boundaries with the complementary concept of social boundaries.

The social foundation forms an inner boundary, below which are many dimensions of human deprivation. The environmental ceiling forms an outer boundary, beyond which are many dimensions of environmental degradation. Between the two boundaries lies an area which represents an environmentally safe and socially just space for humanity to thrive in. It is also the space in which inclusive and sustainable economic development takes place.



The Oxfam Humankind Index for Scotland provides an excellent example of participatory engagement <http://policy-practice.oxfam.org.uk/our-work/poverty-in-the-uk/humankind-index> in the development of an index reflecting prosperity not just in terms of the economy, but in terms of resilience, wellbeing and sustainability.

In addition, Oxfam Cymru has worked with various organisations in Wales and collectively we suggest that the following principles of sustainable development should be included within the Bill to help develop a clear and robust piece of legislation.

Sustainable development means meeting the economic, social, cultural and environmental needs of people and communities without compromising the ability of future generations to meet their own needs and includes the application of the following principles:

- living within environmental limits;
- using natural resources prudently;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- applying the preventative, precautionary and polluter pays principles;
- using sound science responsibly;
- promoting good governance;
- avoiding adverse international impacts;

- ensuring that the people of Wales use only their fair share of the world's resources;
- sustaining and promoting Welsh language and heritage.

## **Q2: What are your views on the proposals for an independent sustainable development body? [Chapter 3]**

### **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.

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 public sector to account.

Oxfam Cymru recommends that the Commissioner be appointed (and dismissed) by the National Assembly for Wales. The Commissioner's role may include the following:

- provide and publish advice on matters relating to the implementation and enforcement of the Sustainable Development Duty;
- conduct research and inquiries into matters which the Commissioner considers relevant to sustainable development or the Sustainable Development Duty;
- make recommendations to public bodies, including Ministers and the National Assembly for Wales in respect of the discharge of their duties under this Act;
- Eligible persons may make complaints to the Commissioner in relation to any matter concerning discharge of the Sustainable Development Duty by public authorities.
- The Minister may make regulations concerning complaints which may be made to the Commissioner.
- The regulations may contain provision concerning (but not limited to)
  - (a) persons who are eligible to make complaints;
  - (b) the time frame within which complaints must be made;



- (c) the procedure which the Commissioner must follow when handling and determining complaints; and
- (d) the sanctions which the Commissioner may impose following determination.

**Q3: What are your views on the proposed phasing and implementation of the Duty including the timing of the establishment of the independent sustainable development body? [Chapter 4]**

We have no comment on this section of the Bill.

**Q4: What are your views on the proposals to improve the accountability framework for sustainable development in Wales? (Chapter 5)**

Oxfam Cymru considers that the proposals outlined in Chapter 5 are inadequate for the purposes of ensuring the delivery of sustainable development. There is logic in requiring the Auditor General Wales (AGW) to audit public bodies to ensure that they have put in place the appropriate processes. However, this does not in itself ensure that public bodies are compliant with the principles of sustainable development or measure whether sustainable development is being delivered.

The content of para 5.8 is unnecessarily restrictive in its audit role. For the Commissioner to be sure that the legislation is being complied with, and establish whether it is sufficient for its purpose, particularly in regard to the interests of future generations, there must be an assessment of the outcomes of sustainable development processes. The assessment of sustainable development outcomes should be included in the role and powers of the AGW, which would inquire into the performance of public bodies and ensure compliance in their duties. This would include audit against a full range of sustainable development indicators designed to identify where there might be weaknesses or short comings. Public bodies would be required to provide information as directed by the Commissioner.

If the Commissioner is not afforded this power, and the AGW is also restricted from this purpose as currently proposed in para 5.8, then there is a real danger that the current Government of Wales Act Sustainable Development Duty will be seriously weakened by this process, rather than strengthened as the Welsh Government intends. The proposals for an accountability framework therefore falls short of what we would expect from a Government wishing to strengthen sustainable development in Wales.

**Q5: We have asked 4 specific questions. Do you have any related issues which we have not specifically addressed, for example with regards to the implementation of the proposals?**

The Bill is heavily reliant on governance processes to embed sustainable development principles within the public sector. This approach clearly relies entirely on a clear understanding of sustainable development by decision makers. Oxfam Cymru is not

confident that all decision makers within the Welsh public sector have sufficient understanding to make often very complex decisions that take into account not only social, environmental and economic impacts but also, international impacts and potential impacts on future generations. The Bill itself, for example lacks clarity on the key principles of sustainable development as well as the outcomes sought.

Oxfam Cymru would like clarification on how knowledge and understanding of sustainable development will be improved within the Welsh public sector to ensure effective behaviour change at decision maker level and beyond. Will for example, the sustainable development body be adequately resourced to deliver in this regard?

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Sustainable Wales  
Cymru Gynhaliol



The future is here

**Sustainable Wales Cymru Gynhaliol**  
**RESPONSE TO THE CONSULTATION ON THE**  
**SUSTAINABLE DEVELOPMENT BILL**  
MARCH 2013

*"We consider Sustainable Wales to be an organisation that is helping the Welsh Assembly Government achieve the ambitions outlined in One Wales: One Planet: The Sustainable Development Scheme. Our aim is to change behaviour, working with communities, public sector bodies, the voluntary sector, small business and politicians."* Margaret Minhinick, Founder and Director.

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**Patrons include: Jonathon Porritt** – Former Chairman UK Sustainable Development Commission, Director Forum for the Future, former Director Friends of the Earth UK, writer, broadcaster, environmentalist.

Sustainable Wales was developed with support from WCVA's Environment Wales, a Welsh Assembly initiative with the voluntary sector.



**Sustainable Wales Cymru Gynhaliol**

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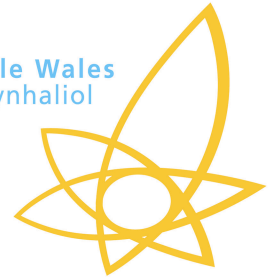
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Charity No.1065789/0

## The future is here

Sustainable Wales was established as a charity involving volunteers and became the first community based sustainable development organisation in Wales in 1997. Our aims are to change behaviour, working with communities, public sector bodies, the voluntary sector, small business and politicians. We believe that we are showing the way forward for community regeneration. Sustainable Wales is a member of many local and some Wales-wide networks and aware of the many agencies and staff involved in the protection of the environment and community regeneration.

Sustainable Wales  
Cymru Gynhaliol



We consider Sustainable Wales to be an organisation that has been helping the Welsh Government achieve these ambitions within civil society. Our grass-roots experience and history of community activity mean that we can engage at street level, whilst communicating with civil servants or politicians. SW is one of very few Welsh charities that is able to turn environmental and social lifestyle ideals into meaningful action.

### Purpose

To improve quality of life and help Welsh individuals, households, organisations and communities to reduce their environmental impact and live more sustainably.

### Aims

To promote 'one planet living'.

To influence behaviour and thus policy change to achieve more sustainable lifestyles.

To support the local 'green' economy.

### Objectives

- To encourage citizen involvement in local decision-making and community action, increasing well-being, skills, confidence and self esteem.
- To encourage and increase use of local, green, ethical and fairly traded goods and services by society.
- To reduce waste of resources and level of waste disposal whilst providing support for durable products, reuse and recycling.
- To save energy and promote renewable energy to combat climate change and further encourage development of a low carbon economy.
- To promote policy change which supports sustainable development.

## SW's techniques and activities

The charity's project activities are based within the community – engagement, awareness raising, training, lobbying, co-ordinating partnerships for action and developing practical projects. We often look for the 'exit' strategy and plan an educational/training/awareness campaign to engage a confident response from existing employees e.g. Midwives for the Real Nappy Campaign, small business traders for the Plastic Bag Free campaign, Printers to offer customers recycled paper products, Teachers involved in Eco-schools or the Fair trade schools campaigns, CVC's who support the voluntary sector. Our aim here is to engage with those who can then spread the sustainability message as wide as possible.

## Green Economy and Volunteer Development

We have always intended our approach to have the twin effect of spreading the sustainability message and offering a real practical alternative. Such as developing social enterprise business models (co-operative involving members) - Gentle Touch Nappy Service and most recently, SUSSED Wales, operating in the high street as an education/retail project promoting sustainable living.

We have always created meaningful employment. **We offer work experience, delivering self-belief and providing confidence.** All our activities involve volunteering opportunities for a cross section of the community.

## Sustainable Wales Response to the Consultation on the Sustainable Development Bill March 2013

Sustainable Wales believes in prudent stewardship of the world, its people, places and natural resources. Sustainable Wales also commits itself to act accordingly.

### Q1 A new duty. Embedding Sustainable Development as the central organising Principle of selected organisations in Wales.

Sustainable Wales welcomes the introduction of a **strong/firm** Sustainable Development Duty into the legislative responsibilities of the Welsh Government and 16 Public Service organisations in Wales. Time is not on our side. Climate change and loss of a rich biodiversity pose a profound threat to people around the world and those most affected will be those that are already the most vulnerable in all societies. This is not just an environmental issue. The agenda must broaden and reflect these social and economic outcomes across all governance structures.

Sustainable development is “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” from the Bruntland Report, 1987.

*Sustainable development is therefore ‘overarching’ and means taking account of the past, the present and the future locally and globally. Making a fair and democratic judgment on economic, social and environmental considerations. ‘Sustainability’ is thus concerned with redefining ‘quality of life’ in a global context.*

**Clarity is required regarding SD. It means many different things and as such is often misused and interpreted.**

There is a need to develop a common understanding of what SD is and the participatory decision-making mechanisms required between national, regional, local governance and civil society to achieve it.

**Public Sector Policy and Practice. How can further decision-making occur without these fundamentals being in place?**

Each public body must adopt a framework of environmental and ethical policies within its own operations, procedures and practices. These must be implemented, monitored, reported on and reviewed for improvement annually.

## Q2 An Independent Sustainable Development Body?

SW agrees with this, but is concerned that a Sustainable Development Body which is totally funded by the Welsh Government will not have the 'teeth' we believe required to voice criticism. However, the Body does need to be well resourced.

We agree that the key function of the body must be to support organisations to embed sustainable development. Positive encouragement and practical assistance are the best way to achieve this. However, we ask that there be a certain amount of urgency considering current scientific evidence on climate change. We suggest that the Precautionary Principle should guide the Body's approach. Furthermore, clear and achievable targets should be set to ensure that public service organisations in Wales make Sustainable Development an unavoidable priority.

We ask that this Body has the scientific rigour to help inform and advise public bodies and thus strengthen political decisions.

We ask that it also has an information and communication role which is shared with and integrates the third sector. For example, if events are organized, the Body must insure that community-based organisations are invited at no cost.

***Sustainable Wales suggest that The Sustainable Development Body is required to form a decentralized structure.***

A regional structure of SD community-based practitioners could be secured. They would work part-time for the Body, and part-time to stabilise and build capacity within their own organisations. This was how UK2000, the precursor to Environment Wales was organised, and it was a radical development. It took place during the premiership of Margaret Thatcher. We would go so far as to state that no subsequent intervention in the environmental and voluntary movements has had such a long-lasting and creative grassroots impact. After all, this is where we need change - on the ground. We suggest that this would really help hard-pressed yet well established SD organisations in much the same way.

(Working relationships would be developed, creation of a structure and internal communication plan; development of coordinated campaign plans e.g. climate change, identification and sharing of good practice and opportunities for replication, profiling of these demonstration projects, development of a proactive approach utilising local knowledge and expertise, researching new information, lobbying constructively at a strategic level i.e. public bodies and WG.)

### **Q3 Views on Implementation**

Fears of an increasing bureaucratic burden can be allayed because the old approaches to decision-making will be removed and replaced with new ones. The reporting of achievements needs to be annual and transparent.

Recognition and regular mapping (International, but especially that in Wales) of good practice is essential, while recommendations should be made for support, replication or adaptation into other authority areas.

### **Q4 Improving the Accountability Framework**

If Welsh Public Services are to be accountable to the Auditor General for Wales for embedding Sustainable Development within their organisations, we ask that the AGW is equipped with substantial additional resources particularly for this purpose. A strong framework of accountability is essential if the SD Bill is to be successful and change current practices. Furthermore, it is not clear what the consequences would be if a public body was found to have made unsatisfactory progress in embedding SD; or what the consequences would be if a public body had ignored its SD duty in making a major decision.

#### ***Monitoring and measuring success***

A report every 5 years seems weak in monitoring the effectiveness of the SD duty. Given the urgency of some of the factors negatively impacting Wales – climate change influencing extreme weather events, social decay due to loss of economic activity, increasing gap between rich and poor, increasing levels of child poverty, empty commercial premises, business failure rates – a more regular monitoring should be undertaken, with a process of regular review and adjustment of the indicators.

### **Q5 – Other views**

#### ***Development of a strong civil society is required to advance matters.***

The third sector could be the key to the above – involving community groups, faith groups, tenants' groups, schools, nurseries, volunteers, sports clubs, social and cooperative enterprises and trade unions. The links need making between climate change and biodiversity and the many social issues we face and will face; issues of poverty, housing, social health, security and well-being. These groups can act at local, regional, national and international level. They have an historic opportunity to sketch a pathway to a low carbon

future. Leadership from this sector could reframe the whole climate change debate.

But we need government support to nurture a new generation of community activists, and for those communities that want to take action. Consistent support is needed to make a real impact. Leadership at a community level as well as national level is needed if the change is to be sustained.

### ***Procurement.***

This is the point where public sector policy and strategic decision-making is translated into practical action – through the procurement of goods and services.

If this is to be done effectively then procurement processes need to be rigorously controlled to ensure best SD practice. Inclusion of social and environmental clauses can help, but these need to be weighted effectively against other criteria, such as cost.

Scrutiny Committees of public bodies need to be trained to understand the SD implications of long-term decision-making and how investing for the long-term and taking preventative measures can secure cost savings over a longer time horizon.

An element of training for understanding SD will be required at all levels - from officer through to senior management - and especially in regard to procurement officers. These latter often work in isolation from the departments for which they are procuring.

In addition, the cross-cutting nature of SD does not sit comfortably with 'silo' budgets or departmental decision-making. Higher spending by one department could create an overall cost saving to the public purse through cost savings in other budgets.

### ***Case Study – Effective Procurement of Service based on cross-departmental budget saving***

Pembrokeshire FRAME has secured a 'bulky waste' contract from the local authority that costs more than other competing services. However, as a social enterprise, FRAME supports adults with learning disabilities and through their 'bulky waste' service they provide meaningful activity for these supported individuals. The council recognised the cost saving that is gained through the avoidance of paying for supported day-care provision for these same individuals. So the investment of a waste budget also supports a strong social benefit locally in Pembrokeshire.

### ***Case Study – Ineffective application of social clauses***

A competitive tender was issued for 9 local authorities in south-east Wales for the collection of waste textiles from their CA sites. The tender was issued with



the inclusion of a 'social clause', which asked for demonstration of positive social impact within the tender bids. However, the weighting for the social clause was only 5% of the overall weighting of relevant factors, with cost/price carrying a 50% weighting.

This inevitably resulted in the tender review panel giving the contract to the bidder who offered the best cost/price value. In this case the winner of the contract was a large commercial firm based in England who remove all textiles from Welsh textile banks for sale into a global market. They pay the councils a price per tonne, but there is no social benefit or economic benefit returned to Welsh communities and the ecological footprint of longer-haul transport is also a consideration.

Other tenders for this contract include locally-based community resource management organisations offering to work in partnership to retain a proportion of the collected textiles within Wales for resale (creating jobs, local economic activity and reduced environmental impact). However, the procurement process did not allow for constructive negotiation with a local consortium and was ultimately only decided on price – on which the community consortium could not compete.

This short-term economic decision was made, over-riding the almost 'tokenistic' inclusion of social clauses.

### ***Social Indicators***

The SD indicators listed in the white paper include economic output, renewable energy production, recycling and composting targets and water management. There is no mention of anti-poverty indicators, health & wellbeing indicators or indicators related to civil engagement. This potentially belies a narrow focus on the set of indicators being used currently and will require a more holistic set of indicators to be drawn up. Conflicts between indicators should also be highlighted, e.g. economic output might go up and result in an associated increase in negative environmental impact. The forthcoming consultation on SD indicators should take note of this gap.

## CONSULTATION FORM

### Sustainable Development Bill White Paper

We want your views on our proposals for a Sustainable Development Bill.

Please submit your comments by 4 March 2012.

If you have any queries on this consultation, please email:  
[SDBill@wales.gsi.gov.uk](mailto:SDBill@wales.gsi.gov.uk) or telephone: (02920 82) 1728 or 6541

#### Data Protection

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tick the box below. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

**CONSULTATION FORM**

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
<b>Name</b>	Ruth Tipping, Russell Elliott	
<b>Organisation</b>	Environment Agency Wales, Countryside Council for Wales	
<b>Address</b>	Environment Agency Wales / Countryside Council for Wales Ty Cambria Newport Road Cardiff, CF24 0TP	
<b>E-mail address</b>	ruth.tipping@environment-agency.wales.gov.uk, R.Elliott@CCW.gov.uk	
<b>Type</b> <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Authorities/Community & Town Councils	<input type="checkbox"/>
	Government Agency/Other Public Sector	<input checked="" type="checkbox"/>
	Professional Bodies and Associations	<input type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

Q1

What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales? [Chapter 2]

We are supportive of proposals to embed SD as the central organising principle via a duty on specified public sector organisations in Wales. We believe this is an essential step to enable Wales to become a more sustainable nation.

We are generally very supportive of the proposals set out in the White paper. We do however believe there are areas requiring further clarification. We discuss these through the responses provided here, but are principally around:

1. SD definition for the face of the legislation
2. Reporting and accountability;
3. Links between organisation set outcomes and indicators and the national suite of SD indicators;
4. The proposed Independent SD Body's role and remit.

We were disappointed with the proposed phasing and would caution that a review of the GOWA should not be allowed to delay enacting of the Bill.

Detailed comments on the Duty:

We note that the proposed duty is to be focused on the strategic decision-making processes of selected organisations. Applying the duty to processes, rather than to specific plans, will be key to ensuring organisations fully consider how they can deliver sustainable development in the exercise of their functions.

We believe that budgetary and procurement processes are key delivery mechanisms for achieving SD outcomes. We think the Bill should make it clear that these mechanisms should be supporting SD principled decision making and delivery. If it is intended that the decision making process for an organisations procurement policy for example, would fall under the requirements of the Bill (p9, 2.26), this should be made clear in the legislation.

In order for the duty on the process of strategic decision making to filter down to delivery of SD, the White Paper proposes that the legislation includes a requirement for organisations to clearly set out the outcomes they are working towards. We support this; an outcomes approach is essential for SD.

EAW have been gaining experience in being an outcomes focused organisation and reporting on these. We will take this experience into Natural Resources Wales. Whilst we are continually looking to improve, we are happy to share the lessons we have learnt to date, and share examples of good practice with other public sector bodies that will be subject to the sustainable development duty. CCW signed the SD Charter and contributed to the development of the SD indicators. Building on this, CCW have been exploring how we embed the ecosystem approach within a framework for SD governance, linking with the Planning Bill and natural resources planning thinking for the Environment Act.

The Welsh Government are also currently developing and promoting its use of the ecosystem approach. The ecosystem approach shares common underlying values with sustainable development. Its application in the decision-making process can therefore make an important contribution towards sustainable development. Guidance accompanying the Bill could highlight how the ecosystem approach can support sustainable development principled decision-making.

Recommendation: The legislation should clarify that the SD duty will apply to the decision making process that is used to develop an organisation's procurement or budgetary policy. Statutory guidance could provide further detail on how this may be undertaken.

Recommendation: Guidance accompanying the sustainable development Bill could promote the ecosystem approach as a pathway which can contribute towards sustainable development.



Q2

What are your views on the proposals for an independent sustainable development body? [Chapter 3]

As indicated in EAW and CCWs responses to the consultation on the proposals for a sustainable development Bill (letter dated 6th July 2012) we support the creation of an independent sustainable development body. We believe however that greater clarity is needed on its role and remit, particularly with respect to scrutiny and any powers it may have.

We support the proposed role around support and sharing best practice and learning. The implementation of this Bill will require the sharing of learning and best practice across the public sector. We would suggest that there needs to be a close working relationship between the Wales Audit Office and the independent sustainable development body to maximise the opportunities for this.

However, it will also be important to use other existing mechanisms. Current programmes such as those run by Public Service Management Wales (PSMW) should be aligned over the next few years to support leaders implementing the culture change and best practice governance that will be required, to ensure the embedding of sustainable development principled decision making within organisations.

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Q3

What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body? [Chapter 4]

(i) Phasing

We welcome a statutory duty to ensure that sustainable development principles are embedded across the public sector. However, we are disappointed that a number of key public service deliverers will not be subject to the duty until 2016.

We acknowledge that certain organisations, such as Community Councils, may require governance change, or have capacity issues that make it difficult for them to implement the duty within a short time-frame. We recognise therefore that such bodies may require greater support and additional time to implement the new sustainable development duty.

However, we are surprised that Local Authorities (LAs) and National Parks will not be subject to the Bill's obligations until 2016. LAs have had responsibility for elements of sustainable development policy and delivery for a number of years and were responsible for implementing the sustainable development focused Local Agenda 21. Similarly, National Parks and LAs, as local planning authorities, already have to make sustainable development (SD) principled land-use planning decisions.

These bodies therefore currently have a greater level of experience and knowledge in SD principled decision-making, in comparison to other bodies.

As set out in our response to the sustainable development Bill discussion paper (letter dated 6th July 2012), we do not support a phased approach to the implementation of the legislation. We consider that relevant bodies should be using the time available until the enactment of the Bill to prepare and get ready for the new duty.

Recommendation: All public sector organisations should be subject to the Bill at the same time, 2015. The time up until 2015 should be used by relevant bodies to prepare themselves to be ready to fulfil obligations contained in the Bill. We acknowledge that certain organisations may require greater support to implement changes. However, it is not clear why a phased approach has been proposed for those bodies that may already have experience and knowledge of undertaking SD principled decision-making.

(ii) Implementation and scope of the new sustainable development duty

The White Paper (paragraphs 2.35-2.37) states that the independent sustainable development body will not itself be subject to the duty and neither will the other Commissions (e.g. Equalities Commission), tribunal bodies or Inspectorates. We acknowledge that there may be legitimate reasons why these bodies should not be subject to the Bill. However, as a matter of good practice and reputation, it will be essential for the independent sustainable development body to lead by example, and demonstrate SD principled decision making.

We also believe that the other excluded bodies should be expected to demonstrate that their activities contribute towards the sustainable development of Wales, and that their decision-making processes follow the principles of sustainable development.

Statutory guidance or equivalent should therefore ensure that these bodies, with key responsibilities for sustainable development delivery in Wales (e.g. the Equalities Commission, and the Planning Inspectorate) are required to apply SD principled decision making to their own activities and delivery outcomes.

Paragraph 2.37 of the White Paper suggests that regulatory bodies will also be excluded from the scope of the Bill. However, a number of bodies listed in 'Table 1 – Organisations proposed to be subject to the duty' of the consultation document currently exercise a regulatory function. We therefore seek clarity as to whether it is proposed that regulatory bodies will be outside the scope of the Bill, or whether the regulatory functions of those bodies will lie outside the scope of the Bill.





Q4

What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]

We support the proposal for the Auditor General for Wales (AGW) to be given a duty that includes examination of how organisations have embedded SD as their central organising principle. We also support the intention for the AGW to scrutinise the extent to which organisations comply with statutory guidance published by the Welsh Government.

The White Paper sets out an expectation that organisations will be transparent and accountable about the way they apply sustainable development (SD) as their central organising principle. It states that identified bodies will need to demonstrate this through the annual reporting of SD indicators. The White Paper proposes that this should be undertaken under the existing reporting mechanisms of organisations.

We support the need for relevant organisations to evidence transparency and be accountable for how SD principles are applied to decision making as a central organising principle. Organisations will need to draw on evidence that reflects economic, social, environmental and long-term aspects to demonstrate compliance (paragraph 2.30). However, it is unclear from the White Paper at what level of detail or confidence these aspects have to be considered.

It is also likely that some of the indicators used to demonstrate that a particular outcome is being delivered will be different from the evidence needed to demonstrate compliance with the Bill in terms of the process for decision making.

The White Paper also suggests that the Welsh Government intends to review the current suite of national SD indicators in 2013 (paragraph 4.10). However, it is unclear whether organisations will be expected to demonstrate their contribution to these national indicators.

If organisations are to develop their own outcomes and associated indicators to report on, it is unclear how the Welsh Government will monitor the collective actions of the public sector in Wales in moving Wales to be a more sustainable nation.

Recommendation: The proposed statutory guidance should clarify the reporting requirements of organisations to ensure compliance with the Bill. Further, the Bill or associated statutory guidance should clarify how outcomes and indicators developed by organisations should align with and inform the suite of national indicators for sustainable development.

Similarly we believe there may be a missed opportunity to be clearer on a consistent approach to reporting on SD as part of an organisations annual report and accounts.

Recommendation: The Bill should as a minimum require public sector organisations to publish information on sustainable decision making and outcomes as part of their annual report and accounts

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Q5

We have asked five specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.

(i) Definition of Sustainable Development

We are disappointed that the White Paper does not clarify how sustainable development (SD) will be defined in the Sustainable Development Bill.

Whilst we would prefer an opportunity to comment on the Welsh Government's proposed definition of SD as part of this consultation, we support the intention to set out the overarching aspects of SD on the face of legislation. We also welcome the intention to use a Bundled type definition of SD, and to provide further detail in statutory guidance. We believe this approach would reduce the potential for debate and delay at the legislative stage.

However, we do have concerns in relation to the statement made in the consultation document which suggests that having the detail in the statutory guidance allows greater flexibility to alter the definition of SD over time. We would not want to delay the Bill with a protracted debate over different definitions of SD. However, neither would we want to see frequent alterations to any definition, or set of principles, as a result of the definition being set out in statutory guidance instead of being included in legislation.

The definition of SD should be fixed. What might alter is the understanding and description of what having SD as a central organising principle means in practice. This should be the only aspect that is subject to change over time, as we learn from applying the defined "principles". This could sensibly be altered, as appropriate, in the statutory guidance.

Recommendation: The definition of SD, or what can be described as the 'SD principles of decision making to be applied', should be clearly set out, and fixed, in legislation.

Statutory guidance, to supplement the SD Bill, should add more detail about what the application of these principles means for relevant bodies. The only aspect that should change over time is our understanding of how best to apply these principles. Flexibility may therefore be required to enable the statutory guidance to be amended, as appropriate, to reflect lessons learnt from practice.

(ii) Single Integrated Planning Framework

We generally support the proposal to put the Single Integrated Planning (SIP) framework on a statutory footing, and rationalising the current legislative framework under the sustainable development Bill. However, we believe it is the process that should be subject to the sustainable development duty rather than a specific plan. Plan names may change over time. SD principles should be applied to any process for integrated service delivery planning that applies within Wales.

Recommendation: The Bill should ensure any process for integrated service delivery planning should be subject to the Bill.

(iii) Replacing the current sustainable development duty

We note that the Welsh Government has submitted a request to the UK Government to amend the Government of Wales Act so that the proposed new SD duty may replace the existing duty set out in Section 79 of the Act.

Whilst we understand the reason for wanting to amend the Government of Wales Act (GOWA), we are concerned that this may delay the sustainable development Bill. We don't believe that it is essential to review the GOWA to facilitate the Bill. The GOWA's requirement for a scheme could support delivery of the Bill; it could set out clearly how the Welsh Government will be applying the Bill to its activities and set the vision and high level outcomes for a sustainable Wales.



### Confidentiality

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 indicate here:

### How to respond

Please submit your comments by 4 March 2013, in any of the following ways:

Email	Post
<p>Please complete the consultation form and send it to:</p> <p><a href="mailto:SDBill@wales.gsi.gov.uk">SDBill@wales.gsi.gov.uk</a></p> <p>Please include 'WG17030' in the subject line.</p>	<p>Please complete the consultation form and send it to:</p> <p>Sustainable Development Bill Team Welsh Government Cathays Park Cardiff CF10 3NQ</p>

### Additional information

If you have any queries on this consultation, please contact us by email or telephone:

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

Telephone: (02920 82) 1728 or 6541