

A Sustainable Wales Better Choices for a Better Future

Consultation on proposals for a Sustainable Development Bill

Response of the CLA

CLA Cymru has some 4,000 members who between them own or manage over half the rural land in Wales.

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 are delighted that the Welsh Government has decided to introduce a duty to embed sustainable development as the central principle.

Rural land managers have been practising sustainable development for generations and it is good to see the Welsh Government catching up.

In essence, the vast majority of landowners want to hand on to their successors an asset that is at least as economically, environmentally, and socially valuable as it was when they took it on. This strikes us as going to the core of what sustainable development means in practice.

It is very difficult to envisage any land manager being successful without practising sustainable development. The overwhelming majority of them need to derive an income from their land and are keen for their successors to continue to do so too.

As such, every land manager needs to ensure that his exploitation of the land does not result in it being harmed over the long term. He needs to ensure, for example, that he retains good quality soils and water so his successors can continue to farm.

Similarly, much of what the land provides can only be delivered over the long term. As a result, the more prudent landowners undertake activities that will not yield any results in their own lifetime, but which will provide an income for their children or grandchildren. The planting of woodlands would be a common example of this.

Notwithstanding our commitment to sustainable development though, we are concerned with the definition proposed in paragraph 1.9 of the consultation paper. It distorts the accepted and well understood wording of the Brundtland Commission by adding wording which we at the very least find confusing and unnecessarily complicated.

We accept that social justice and fairness are laudable objectives, and would hope that the Welsh Government and the various bodies operating under it already apply

the principles, but they are conceptually different from sustainable development and we are concerned that an attempt to merge them will merely result in confusion and uncertainty. In short, by all means adopt the principles, but keep them separate.

We do not see how the phrase “*enhance the natural and cultural environment and respect its limits – using only our fair share of the earth’s resources and sustaining our cultural legacy*” improves on the Brundtland definition. When there is an accepted form of words that everyone is familiar with and is used to working with, why change it? It seems to us to be just change for the sake of change.

The final point we make under this heading, is to urge the Welsh Government not to forget the economic limb of sustainable development. We find the lack of references to economic activity in the paper rather disconcerting and hope it does not indicate the attitude of the Welsh Government and its ancillary bodies. If they are assumed to be treating the concept of sustainable development as simply a means of stifling enterprise in rural areas, it will soon become discredited and be seen as a problem. As such, we suggest it would be useful if the Welsh Government could give some clear statement of the importance of the economic limb within the overall context of sustainable development.

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

We think the proposal for a new sustainable development body is a mistake. The primary reason is that it will lead the bodies subject to the duty to regard sustainable development as something that the new body does, not something that should be intrinsic to the exercise of their own functions. Each of the bodies will have to apply the concept to their own needs and they are best placed to do that - we really do not see that they need the support of an outside agency to assist.

Insofar as the new body is intended to encourage compliance – or constructively challenge - we suggest that it is a matter for the Minister to deal with personally. If a Minister feels that one of his agencies is not delivering, he should be able to deal with the matter himself without having to rely on some other agency to do it for him.

A further objection to the creation of a new body is cost. It hardly seems compatible with the principle of sustainable development to devote resources to the creation of a new agency the sole function of which is to tell other agencies what to do. Similarly, we suggest that in the present economic climate the creation of new bodies, in the absence of an overwhelming need, will not be well received by Wales’ taxpayers.

Finally we raise the issue of delay. Setting up a new body will take time and further time will be spent on it before it is fully up to speed and capable of delivering its functions effectively. As a result, there will be a consequential delay in properly implementing the new duty. The bodies subject to it will be reluctant to proceed in the absence of the relevant guidance etc (if they are not then what is the point of the new body?).

If it is decided that a new body is to be created, we would urge that the advisory panel referred to in paragraph 3.14 includes a significant level of land manager representation. As noted above, land managers have considerable experience of practising sustainable development and, equally importantly, we suspect that any policies intended to promote sustainable development will have a significant impact upon them and they need to be engaged at the highest level to ensure the policies are properly informed.

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?

Our views on this are dealt with in our discussion of the risk of delay set out above.

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

We agree with the proposals.

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.

**Ben Underwood
Director CLA Cymru**

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 or telephone: (02920 82) 1728 or 6541

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CONSULTATION FORM

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
Name	Suzy Davies Am	
Organisation	National Assembly for Wales	
Address	Ty Hywel Cardiff Bay CF99 1NA	
E-mail address	suzy.davies@wales.gov.uk	
Type <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]
Please provide your views below:	

Q2

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

Please provide your views below:

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:

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:

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:

I wish to limit my response to the issue of compliance with the Welsh Language Measure. It is not clear from these proposals how they will comply with the obligations set out in both Schedule 6 and Section 29 of the Welsh Language Measure.

Further, I wonder whether the appointment of the Welsh Language Commissioner as an ex-officio member of the new body is appropriate in view of the Commissioner's independent role requiring her to be at arms' length from those public bodies which she will be required to 'police'.

It is not clear that the policy objectives of the Measure will be duly reflected in the final Bill. Nor does it state that the activities of the body, particularly in its dealings with, and any influence over, planning authorities will comply with the policy objectives of the Measure..

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:

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<p>Please complete the consultation form and send it to: SDBill@wales.gsi.gov.uk 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
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Your Ref/Eich Cyf:

Our Ref/Ein Cyf:

Date/Dyddiad:

Tel/Ffôn:

e-mail / e-bost

27 February 2013

01633 644843

hazelclatworthy@monmouthshire.gov.uk

Dear Sir/Madam

RE: Sustainable Development Bill White Paper

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

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

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 are supportive of the proposal to require public bodies to make sustainable development their central organising principle. We also agree with the emphasis on making sustainable decisions resulting in more sustainable outcomes.

However, there still seems to be a lack of clarity on how this is going to be implemented and enforced. We would welcome further guidance on how the sustainability of: i) the strategic decision making process and ii) how the outcomes of these decisions, will be measured and monitored. It will be important that outcomes measured are an effective gauge of genuine sustainability, rather than just what is easy to measure.

Whilst we understand the desire for flexibility in how we make decisions and measure outcomes, there also needs to be clarity on what is expected of organisations. We would also welcome training and support for public bodies (in our case both officers and elected members) to help them understand what is required of them, and how to make the duty a reality in their organisations.

We support the emphasis on long term thinking and planning, but note that this kind of future planning work is difficult to achieve when budgetary and political cycles are still short term.

We feel that the Bill could provide opportunities to remove barriers that prevent more innovative ways of working.

We support the principle of reporting through our existing reporting arrangements in order to not add excessive additional workload. However, the Bill and its enforcement through the Auditor General for Wales needs to ensure that these reporting arrangements do genuinely demonstrate whether decisions and outcomes are sustainable. Otherwise there is a risk that the Bill may just become another tick box exercise, without making genuinely sustainable decision making part of what we do.

We were interested to see that Single Integrated Plans may potentially be subject to the duty, and would welcome more information on how this would work, when not all of the partners on LSBs will be subject to the duty. It is important that collaborative projects and partnerships are subject to the duty, particularly because more and more local authority work is being delivered in this way. However, were an LSB to fail to meet the requirements of the duty, how would liability be apportioned across the partners?

We would also like to see more clarity on how the Bill links in with other requirements on local authorities such as our work on Climate Change Adaptation. It is important that WG leads by example by joining up the SD Bill with other existing streams of work and guidance.

As expressed in the previous consultation, although they should comply with the principles of sustainable development, we do not believe that Town and Community Councils will have the capacity to report and comply with the Bill.

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

We welcome the proposal for an independent sustainable development body, but feel that the remit proposed is too ambitious. We feel that its key role should be to support the public sector in implementing sustainable development as its central organising principle, rather than supporting other organisations in Wales. With such a large remit it would be interesting to see how much resource will be allocated to the body, because there is a risk that the level of support available to public bodies will not be enough.

It would be useful to understand how the body would link with other organisations already offering similar support such as the WLGA Sustainable Development Framework, Cynnal Cymru and Sustainable Development Co-ordinators Cymru.

The body will need to work closely with the Auditor General for Wales, to ensure that the support they offer public bodies closely aligns with what AGW will be monitoring and enforcing.

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?

Until there is more clarity on what will be expected of public bodies in terms of the reporting requirements, it is hard to gauge whether or not we as a Local Authority would be ready and have the capacity to be part of the implementation in Phase 1. However, if we better understood what the requirements looked like, we would

be willing to work with the AGW to help shape and develop how we report and how to make SD as a Central Organising Principle something meaningful and tangible. If that were to happen then we would be willing to be part of the first implementation phase in 2015.

We feel that it is important for the SD body to be up to speed and able to start work immediately the duty comes into force, and would suggest that a shadow body be established in readiness for this.

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

For the duty to be meaningful and make a real and tangible difference, thorough scrutiny, monitoring and enforcement need to be in place. The Auditor General Wales would seem to be well placed to fulfil this function. However, the nature of the sustainable development duty means that it is a very different type of thing to scrutinise, compared with the more traditional role the AGW has played. This means that there will need to be significant training and support for AGW to ensure they fully understand what they are auditing. As described above, we would be willing to work with them on this.

It is not currently clear exactly who within the bodies subject to the duty will be responsible for ensuring compliance with the duty, and what the implications of non-compliance would be. In other words, the buck stops where? Our Sustainability team is already stretched, particularly with the work taking place on climate change adaptation, and there is a concern that the bulk of the work needed to introduce SD as our central organising principle would fall to them.

Naturally, the Sustainability team will have a role in supporting services to understand what the Bill means to them, and perhaps doing some initial training. We would also hope to draw other resources in to support this work (e.g. from our team of Intrapreneurs). However, we would not want to end up in the situation where the Sustainability team end up having to do all the reporting for the whole authority and/or have to take ultimate responsibility for whether or not decision making and outcomes across the authority are sustainable or not.

We look forward to seeing how the Bill progresses.

Yours faithfully

Hazel Clatworthy
Sustainability Community Officer
On behalf of the Sustainability Team

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CONSULTATION FORM

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
Name	Chris Dixon	
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E-mail address	mawddach@gn.apc.org	
Type <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 checked="" 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]
<p>Please provide your views below:</p> <p>We consider that on the whole the Welsh Government is pursuing an appropriate and useful course and rather than answer these specific questions have chosen to offer general views and some specific comments. There was insufficient space to paste our comments into the appropriate place on the form so we have attached a word document containing our response.</p>	

Q2

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

Please provide your views below:

Q3

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Q4

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Paramaethu Cymru / Permaculture Cymru

The Welsh Working Group - mawddach@gn.apc.org

The Permaculture Association Britain - www.permaculture.org.uk

Response to the Welsh Government's consultation on the proposed Sustainable Development Bill.

We would like to applaud the Welsh Government for their commitment to sustainable development, evident in this current consultation, on the proposed Sustainable Development Bill, and building upon previous good work. These efforts mark Wales as being at the forefront in Europe, and indeed the world, in the movement to evolve genuinely sustainable environments and communities and, as a consequence, economic well-being.

Permaculture Cymru sees its role as to support the Welsh Government in its efforts and to provide expert feedback relating both to general and specific issues.

General Points.

Integrated Solutions

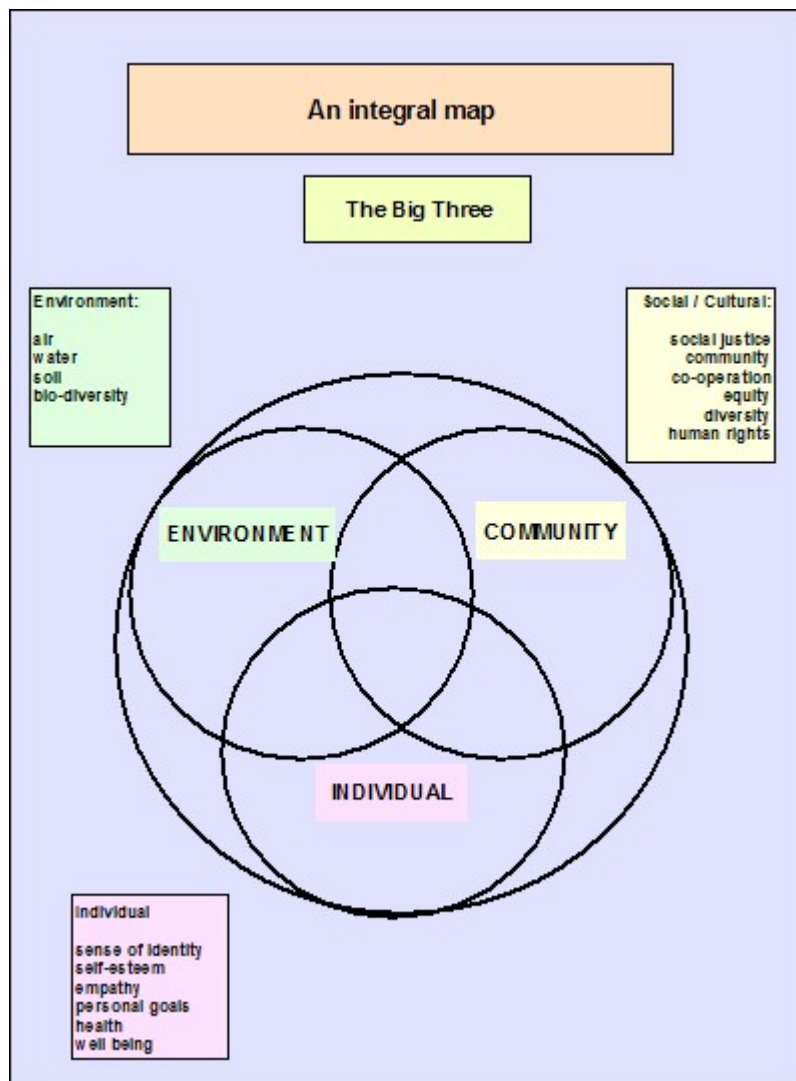
It is good to see the recognition of the value of integrated solutions, a concept permaculture designers are very familiar with. In order to effectively integrate solutions, some form of integral or integrating map is useful. The current, Three Pillars, namely the environment, the community and the economy, are often used in such a way. However, critiques of this map demonstrate that the elevation of the economy to that of an equal with the environment and community is an understandable consequence of the current underlying culture, assumptions and mindsets of global capitalism, and has allowed many businesses to continue more or less as usual, while claiming to be sustainable. The cultural influence is also evident in the Ministerial Foreword, where, despite the inclusion of the aims of social and environmental well-being, the "priority is to create jobs and help enable a more resilient economy".

Integral Maps

More useful integral maps do exist and it is interesting that Cynnal Cymru should also be presenting a draft of an integral or integrating map at this time. In permaculture design we have used Ken Wilbur's AQAL¹, which, among

¹ Ken Wilbur's AQAL is a very sophisticated integral map which although elegant in its simplicity requires careful explanation, beyond the scope of this current response. Interested parties are directed to http://en.wikipedia.org/wiki/Ken_Wilber

other things, allows for a very sophisticated mapping and analysis of the different consequences of various courses of action, or the much tried and tested Big Three, the Environment, the Community and the Individual.



(See illustration below)

In the Big Three, the economy is seen as the emergent property of the actions and inter-action of individuals within a community, in relation to the environment, which is the primary resource base. Using this perspective it is clear that changes in the behaviour of individuals will produce corresponding changes in the other areas and hence in the economy.

The importance of the individual

By placing the individual within the integral map, we remind ourselves that we are agents with free will who are in a position to change our lifestyles, and hence our communities and environments. Permaculture Design places great emphasis on encouraging and supporting lifestyle changes in individuals

through its practical courses and has strong experience in this grass roots, ground up approach.

The word Development in Sustainable Development

Sustainable Development is an increasingly difficult term and can be greatly abused, which is one reason why the eco-socio design system we practice today was called Permaculture Design and not Sustainable Development Design. It was clearly seen by many in the late seventies that the concept of development, strongly linked to major infrastructure projects and economic growth, would be impossible to maintain in a finite world. Yet development still features as a foundation of our economic thinking, even though in Europe, many countries are showing little, if any, growth and some have been in continuous recession for several years.

In permaculture design, our analysis of likely future scenarios² indicate that static or permanently contracting economies may well become more common in the future, and this is now supported by some of the leading economists of the day. Greater attention is being given to how these economies might work, given that capitalism itself requires growth in order to function at all. In Wales, as elsewhere in the UK, local authorities are already struggling to maintain existing services on shrinking budgets; we feel it would be wise for the Welsh Government to give attention to "steady state economies" and how these might operate³.

Sustainable?

The word sustainable is also problematical for several reasons. From a permaculture design perspective, sustainable is simply not good enough; the environmental and social systems that sustain us as individuals and communities are already seriously eroded and sustaining eroded systems is not enough. We see sustainable as the midpoint between degeneration and regeneration. Clearly then, regeneration is what is required, of our environments, communities and ourselves as individuals.

No-loss policies

"No-loss" policies could be seen as a favoured approach; that is, policies which lead to solutions that are valuable in themselves anyway, rather than flagship operations that may quickly flounder with changes in markets or fuel

² David Holmgren. futurescenarios.org

³ Steady State Economies. Enough is Enough; Ideas for a Sustainable Economy in a World of Finite Resources. Summary of the Report. www.steadystate.org/enough-is-enough/

prices. Thus solutions which empower local communities to take action themselves, particularly in relation to their environment, that regenerate environmental and social resources, may have lasting value, whatever the fluidity of the stock market.

Long term thinking

The long term thinking expressed is encouraging, as there is the need to invest limited resources wisely and the future is not clear. Having some method of envisioning possible futures is extremely useful. Permaculture designers have used two major challenges, the increasing costs of both climate change and energy, as axis to produce four possible scenarios⁴ which provide useful guides to designing integrated, no-loss solutions.

Engagement and flexibility of outcomes

Similarly, the Welsh Government is showing its commitment to engagement, which will be essential for generating lasting solutions. Permaculture designers have considerable experience in the field of engaging individuals and groups in designing their own solutions. Without that engagement, particularly at the visioning stage, projects often need continuous or increasing support or simply fail. We also see flexibility of outcomes is crucial, given the levels of uncertainty and it is good to see this recognised here. Any design (ie. an integrated solution) needs to be able to respond rapidly to changing circumstances and take advantage of new opportunities as they arise, hence must be flexible from the outset.

The list of Organisations proposed to be subject to the duty

The Police service are not specifically mentioned in the list; are they included in another group or is this a deliberate omission? If so why?

Minor inconsistencies

There are some inconsistencies and confusions in terminology. References are made to the fundamental elements of sustainable development (1.7 there are 4), the key elements of sustainable development (2.4 there are 2), the key principles within the Rio +20 outcomes document (2.7 there are 4), key sustainable development principles (2.8 there are 4), key features (3.2 there are 7), A set of ten key principles (3.15 non are given) not to mention the five headline sustainable development indicators (2.15)

⁴ David Holmgren. futurescenarios.org

In the interests of clarity these might be given some thought. In the interests of transparency it would be useful to be able to find these easily on the Welsh Government web-site.

C.Dixon for Paramaethu Cymru 2013-03-04

A Sustainable Wales - Better Choices for a Better Future Consultation on proposals for a Sustainable Development Bill



RSPB response to the Welsh Government's White Paper

1 March 2013

If you have any queries in relation to this response please contact Annie Smith, Sustainable Development Manager, on 029 2035 3049 or annie.smith@rspb.org.uk

Introduction

The RSPB is Europe's largest wildlife charity, with over one million members, over 51,000 of them living in Wales. The Society manages one of the largest conservation estates in the UK, covering more than 140,000 hectares; 17,000 of these in Wales. We work with government, voluntary organisations, businesses and landowners to protect and improve Wales' natural environment. Our vision is of a world where biodiversity loss has halted and in which human actions ensure the sustainable management of the planet's natural resources. Such a world would provide future generations with clean air and water, a stable climate, abundant and diverse wildlife populations and a robust, diversified sustainable economy.

The RSPB's key requirement of the Sustainable Development Bill is that it should recognise restoring Wales' degraded environment as a key deliverable of sustainable development, underpinning our society and economy. As the Royal Commission on Environmental Protection in Environmental Planning said in 2002 "*Protecting and enhancing the environment must be firmly and unambiguously accepted as the foundation for sustainable development.*"

Nature is a key test of the health of our environment and the ongoing declines in many of our priority species and habitats in Wales provide evidence of our continued failure to live sustainably. The imperative to tackle continued environmental pressures is driving the parallel development of the Environment Bill, which presents a further opportunity to bring forward new tools for the delivery of sustainable development, as does the forthcoming Planning Bill. We look to the Welsh Government to ensure coherence and complementarity between these three important pieces of legislation.

The central challenge of sustainable development is to identify ways to decouple economic growth from environmental degradation. This challenge is by no means easy and it will require Wales as a nation to look at very different approaches to wealth creation, value and investment. It requires us to look at areas such as:

- how we can create economic activity in areas which have a beneficial impact on the environment and society;
- considering waste as a resource;
- stimulating economic activity in addressing the legacy of environmental degradation;
- facilitating schemes which deliver multiple beneficial outcomes;
- creating new ways of viewing value and prosperity which consider the environmental and social aspects as well as the economic.

The Sustainable Development Bill must set the context and provide the driver for the positive action needed to meet this challenge. The current proposals must be strengthened if this is to be achieved.

The RSPB is a member of Wales Environment Link (WEL), whose recommendations for the Sustainable Development Bill are:

- to strengthen the current sustainable development duty;
- to define sustainable development (which must include 'living within environmental limits');
- to define the outcome that Welsh Government wishes to see;
- to establish an independent Sustainable Development Body to advise, support and scrutinise compliance, whilst advocating the needs of future generations;
- to ensure the sustainable development duty applies to all levels of decision making.

We have supported WEL's response to the White Paper, which goes into greater detail on a number of issues.

Responses to 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?

The RSPB strongly supports the principle of creating a new legal duty for sustainable development, to apply to Government and public bodies. However we are not convinced that the proposals as they stand are sufficient to secure the change needed.

In spite of the existing duty in the Government of Wales Act, our degraded environment makes it clear that overall sustainable development is not being achieved. It is our view that in order to elicit real change the new legislation must ensure that the Welsh Government and other organisations are scrutinised and held accountable against meaningful assessments of progress towards sustainability - not simply of internal systems and processes. **We want to see a duty to achieve sustainable development, linked to outcomes, coupled with a duty to report regularly on progress towards these outcomes.**

The Welsh Government will need to set high level outcomes, which will need to be translated into specific outcomes for the bodies covered by the duty. Targets set through international as well as national legislation and agreements – e.g. on biodiversity, renewable energy, climate change and water – must be incorporated into the high level outcomes, and used to assess progress on sustainable development (in particular, on whether we are living within environmental limits).

In addition, **the Welsh Government's duty must include a requirement to set out a route map at the start of each new Assembly, describing how it expects sustainable development to be achieved.** The Bill will need to provide a mechanism to ensure continuity in relation to targets that are longer reaching than the five year Assembly term. **Public bodies should also be required to use their corporate plans to demonstrate how they will deliver their specific sustainable development objectives.**

Defining Sustainable Development

We are pleased that the Welsh Government has committed to define sustainable development on the face of the Bill, but concerned that the White Paper does not set out a proposed definition. If the Brundtland definition is used, it is essential that it is elaborated using the five principles defined in the UK's shared framework for SD - *One Future, different paths* - and reiterated in *One Wales: One Planet*: Living within environmental limits, ensuring a strong, healthy and just society, achieving a sustainable economy, promoting good governance and using sound science responsibly. Both *One Wales: One Planet* and the UK Framework are clear that our environment must be *improved*, not simply maintained in its current degraded state. In line with this, **the international target to halt biodiversity loss and ensure recovery is underway by 2020 must be incorporated as a high level outcome of sustainable development.**

Scope of the duty

The RSPB agrees it is essential that the duty does not simply give rise to a new tick box exercise, which is unlikely to be effective in preventing inappropriate decisions being made. For example, it must be clear that decisions that would result in a negative environmental impact cannot be considered sustainable simply because they create a positive impact (and put a tick in the box) on the economy. The new duty must result in better co-ordination of policies, decisions and investment choices affecting use of land, sea and resources both within Wales and beyond its borders. Arguably, there is much high level policy that addresses sustainable development already; the issue is that this has not been delivered sufficiently through decisions and actions – that is the critical change the Bill must effect.

We therefore fundamentally disagree that the scope of the duty should be limited to policy and corporate planning processes, and that it should not apply for example to budgetary and procurement decisions. At the very least it is bound to take time for such decisions to be brought into line with high level policy and strategy, and organisations must be held accountable for any decisions which impact negatively on sustainable development indicators. Furthermore, if the duty does not apply to budgetary decisions at the very least at a corporate level, then we cannot see how it is to have any significant 'bite' on decision making.

We welcome the proposed obligation on organisations to demonstrate compliance through annual reporting arrangements, and again stress this must be linked to outcomes.

Question 2 – What are your views on proposals for an independent sustainable development body?

We agree that a new independent body should be established but we feel the proposals need to be strengthened, particularly in relation to holding Government and other public bodies to account for delivery of sustainable development. Both chapters 3 (on the new independent body) and 5 (Accountability) seem to focus on assessment of organisations' internal systems and processes rather than on results.

We welcome the reference made to the new body being responsible for recommending and monitoring key indicators of progress, but stress again that these must be outcome focused. In addition to identifying failures in delivery, the sustainable development body should be empowered to advise Government and public bodies on ways to remedy them, with a requirement for public bodies to show how they have taken its advice into account.

We also welcome the proposal for the body to report regularly; again, it is critical that the body reports on progress towards delivery of sustainable development outcomes on the ground, not simply on systems for decision making.

We note that the former Sustainable Development Commission (SDC) is being drawn on as a model for the new independent body. It is essential that the body includes expertise on the natural environment, which we consider to have been a shortcoming of the SDC. The new body will also need to collaborate with external experts and other statutory advisers including Natural Resources Wales.

It is, of course, critical that the new body is provided with the resources it needs to work effectively.

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?

We accept that it will be necessary to phase implementation to some extent, recognising the time that will be required for new guidance etc to be developed by the Welsh Government and the new sustainable development body. We suggest, however, that the duty should be applied to all public organisations at the same time to encourage them to begin putting in place the necessary changes and systems as early as possible. We also urge the Government to establish the new body as early as possible to ensure it is as well prepared as possible to support the transition needed in other organisations.

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

We agree that it is sensible to integrate scrutiny of delivery of the new duty within existing frameworks, and therefore welcome the proposal to place a duty on the Auditor General Wales (AGW). We suggest the same duty should be applied to the bodies responsible for scrutiny of those organisations that fall outwith the remit of the AGW.

As discussed above, we are concerned that it is not clear how progress towards sustainable development outcomes (i.e. in relation to sustainable development indicators) will be assessed. The proposed role for the AGW appears to exclude this fundamental aspect of scrutiny in terms of the effectiveness of the measures implemented by organisations to deliver their responsibilities to sustainable development. As noted above this type of scrutiny role is not discussed in detail in relation to the new sustainable development body's remit either – it must form a part of the overall accountability framework if sustainable development is to be achieved. For example, scrutiny arrangements must be equal to the task of highlighting any incoherence or conflict within the Welsh Government's policy agenda - such as taking decisions increasing our dependency on fossil fuel in spite of commitments to reducing greenhouse gas emissions.

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?

It is clear that the Welsh Government is going to some lengths to disabuse stakeholders of the notion that sustainable development is simply an environmental issue. The Minister's foreword to the White Paper states '*Our priority is to create jobs and help enable a more resilient economy*', without acknowledging the critical role of a healthy natural environment in underpinning life in Wales. This is particularly disappointing at a time when another team within the Minister's department is working towards new environmental legislation based on recognising the fact that our ecosystems provide our life support system and are fundamental to our society and economy.

Respecting environmental limits must be seen as a – indeed the - fundamental principle of sustainable development. Failure to do so will fail to fully address wellbeing, and compromise future generations. As the RSPB's sustainable development publication *Think Nature* states, "*A society living within environmental limits is one that will not tolerate continuing biodiversity loss; will not cause climate chaos; will not deplete or degrade finite natural resources such as water, soils and minerals, and will not allow the erosion of ecosystems that support human needs, at home and abroad*".

The Royal Commission on Environmental Protection in Environmental Planning (2002) said that "*Protecting and enhancing the environment must be firmly and unambiguously accepted as the foundation for sustainable development. The statements of priority objectives should be prepared on the basis that sustainable development is achievable only if the environment is safeguarded and enhanced*". This was recognised in *One Wales: One Planet*, and The RSPB wholeheartedly agrees. We assert that this requires the recovery of biodiversity to be adopted as a key sustainable development objective that Government and other public bodies are assessed against. Translated into specific objectives for a local authority, this might mean a requirement to ensure no net loss of biodiversity, and targets to increase/restore the area of semi-natural habitat. For a nationwide body such as the NHS, it might mean targets to provide habitat within its land holdings, achieving multiple wins including benefits to mental and physical health from access to natural green space, as well as to biodiversity. Ambitious targets should be set for individual public bodies, to support attainment of wider Government targets. The Environment Bill may need to provide additional tools to facilitate delivery, but the Government must set the scene by recognising the environmental imperative behind the Sustainable Development Bill.

There is a very high risk that, in seeking to play down the environmental imperative and thus broaden the appeal of sustainable development to stakeholders, the Welsh Government will further ingrain a problem identified in the Welsh Audit Office (WAO) report in 2010. The WAO found that different people within government have had different ideas about what sustainable development means, such that '*it can be argued that it is everything we do*'¹. This renders it impossible to assess whether Wales is moving towards sustainability in a meaningful way, and does not create a strong imperative for any change from "business as usual" even though boxes may be ticked and high level strategies may make appropriate references. To create new legislation for sustainable development that does not include real drivers for change, honest assessment, and means of reforming where necessary, would be worse than doing nothing.

To repeat a key message from the introductory section of this response, the central challenge of sustainable development is to identify ways to decouple economic growth from environmental degradation. This challenge is by no means easy and it will require us as a nation to look at very

¹ Paragraph 24 in Wales Audit Office 2010 *Sustainable development and business decision making in the Welsh Assembly Government*.

different approaches to wealth creation, value and investment. It requires us to look at areas such as:

- how we can create economic activity in areas which have a beneficial impact on the environment and society;
- considering waste as a resource;
- stimulating economic activity in addressing the legacy of environmental degradation;
- facilitating schemes which deliver multiple beneficial outcomes;
- creating new ways of viewing value and prosperity which consider the environmental and social aspects as well as the economic.

To have any hope of stimulating this level of change, the Welsh Government must be explicit about the challenge and articulate it boldly and clearly so that innovators, businesses and civil society have a clear direction and can adapt and respond.



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Sustainable Development Bill Team
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4th March 2013

Re: Welsh Government White Paper WG17030, 'A Sustainable Wales: Better Choices for a Better Future', Consultation on proposals for a Sustainable Development Bill

Dear Sir,

Thank you for this opportunity to respond to this consultation on the proposals for the Sustainable Development Bill, in particular the governance framework for sustainable development as a central organising principle for public bodies in Wales, and the proposal to create an independent sustainable development body for Wales.

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?

Valero takes its commitment to being a responsible environmental actor very seriously. We are committed to producing environmentally clean products, while striving to improve and enhance the environmental quality of our operations within our communities.

Valero's opinions concerning the Welsh Government's sustainable development proposals rests on the nature of the balance between what this White Paper describes as "economic, social, environmental and long-term wellbeing." Valero is concerned that economic development considerations may be stymied or overlooked by a strict focus on environmental considerations, to the detriment of economic factors.

Also, the emphasis placed in these proposals on "prevention" and "early intervention" as an aspect of the sustainable development central organising principle, also concerns Valero, as it could be seen to foster an inherently negative attitude towards sustainable development. The Welsh Government must ensure that the sustainable development principles outlined in the White Paper do not lend themselves exclusively towards an interpretation that seeks to prevent development, but that seeks out opportunities for development as well.

At a time when the UK oil refining and downstream industry is facing a wide array of challenges, including the impact of EU and UK-level legislation, it is vital that through these proposals Wales does not seek to impose excessive statutory obligations on those public bodies that oversee the oil refining sector, on top of the already numerous UK and international requirements that the industry faces.

Any new central organising principle for sustainable development must encourage such public bodies to focus strongly on the need for sustainable development in a socio-economic context, as well as an environmental context.

With that consideration in mind, Valero approves of the White Paper's commitment to providing flexibility in the way in which public service bodies carry out their sustainable development responsibilities, and the acknowledgement that outcomes cannot be prescribed through legislation.

Q2. What are your views on the proposals for an independent sustainable development body?

The proposals for a new independent sustainable development body, headed by a Commissioner for Sustainable Development, are noteworthy and deserve close consideration.

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However, we also echo the numerous calls in the White Paper that the implementation of the new sustainable development principle must not add any bureaucratic burden.

With that in mind, Valero would recommend a close examination of the current structure of the role of the Commissioner for Sustainable Futures, and the possibility of perhaps augmenting that role as opposed to creating a significantly new bureaucracy to support and advise the listed Welsh public sector bodies, with all the attendant costs that would entail.

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?

Valero welcomes the phased approach to introducing the new sustainable development duty. However, we are concerned that opportunities to evaluate the readiness of nominated bodies under the new sustainable development duty will be missed due to a rigidly set implementation timetable, regardless of the capabilities of individual bodies in implementing the new duty, and the inexorable progress towards the creation of the independent sustainable development body.

Might it be advisable for the Welsh Government to factor in a generous preliminary evaluation period, in order to assess the processes of each nominated organisation, and the impact the new sustainable development duty might have on key stakeholders who interact with those organisations?

Q4. What are your views on the proposals to improve the accountability framework for sustainable development in Wales?

Valero welcomes the role the Auditor General Wales (AGW) is proposed to play in scrutinising the impact of the new sustainable development 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?

N/A

As always, Valero is grateful for the opportunity to discuss these issues with the Welsh Government, and we look forward to further developments with great interest.

Yours sincerely,

Edward Tomp
Vice President and General Manger, Valero Pembroke Refinery

**“A Sustainable Wales - Better Choices for a Better Future”
Consultation on proposals for a Sustainable Development Bill**

**Response from Carmarthenshire County Council
February 2013**

We welcome the opportunity to comment on the Welsh Government’s White Paper, and welcome the overall aim – “to secure better decision making related to clear outcomes that improve the wellbeing of Wales”. In general the aspirations contained within the White Paper are highly commendable; however the lack of any substantial detail is still a concern. No information is provided on what “good” would look like when organisations have truly integrated SD and what the Bill will actually mean for organisations in practice.

Depending on what the requirements of the duty will entail we are also concerned that the new duty could be used by certain parties to stifle development rather than to enhance it. It is therefore essential that it should not become a “tick-box” compliance, or add unnecessarily to the burden of bureaucracy.

In addition, we must note our concern at the number of different bills and white papers being put forward by Welsh Government in recent months (such as the Public Health Bill Green Paper, Environment Bill, Planning Bill, Social Services Bill to name a few) and ask that full consideration is given to the inter-dependency between these individual proposals and where possible to streamline requirements.

We welcome the inclusion and reference to working collaboratively through the Local Service Board level – this forum is well placed to deliver shared outcomes and to share good practice amongst the various public sector organisations at a local and regional level. Carmarthenshire’s Local Service Board will also be preparing a response to the most recent communication from Welsh Government: “Sustainable Development Duty & Collaborative Working: discussion paper for LSBs”.

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?

- The language and approach outlined in the White Paper is familiar to Carmarthenshire County Council – sustainable development is already identified as our ‘central organising principle’ in our SD Policy which was approved by County Council in May 2004.
- It also largely reflects what CCC is already doing - i.e. outcome-focused corporate planning and performance management processes, both as an Authority and also collaboratively as part of Local Service Board. Whilst this approach is not labelled as a SD framework, it is firmly and consciously underpinned by SD principles.
- Public sector organisations have differing levels of maturity in addressing SD – Carmarthenshire County Council has been an early adopter and recognised leader in embedding SD at a corporate level. We have used tools such as WLGA & Forum for the Future’s *Sustainability Standard* to assess our performance and identify areas for

improvement. This degree of maturity needs to be recognised by Welsh Government by adopting a flexible approach that does not impose a prescriptive, nor unnecessarily burdensome, framework for organisations where appropriate systems are already in place.

- In local Government the Local Government Wales Measure 2009 places a duty on us to improve and sustainability is one of its defined aspects of improvement. We also have the duty of well being and other guidance across a range of legislative requirements – therefore the SD duty should seek to consolidate and build on these existing duties.

Central Organising Principle

- We agree that the duty should look at what we're delivering as well as how; however there is a need for clearer guidance and direction to clarify expectations.

The Nature of the Duty

- We also agree with the principle of combining the behaviours and objectives approach (2.8) and support the key principles proposed in 2.10 to 2.14; however, it is very difficult to see how these may manifest themselves within the current system e.g. current economic climate, short term budgets and political cycles.
- It is particularly important that all public service partners understand this duty and adhere to it.

Defining sustainable development

- The agreed definition needs to filter through to other legislation and guidance produced by Welsh Government to ensure integration throughout public service delivery.

Delivering Outcomes

- The success of this Bill will rely on organisations signing up to, and delivering, clear long-term outcomes that will improve the social, economic and environmental wellbeing of their area. It is only then that it can be properly scrutinised or audited.
- We strongly agree that we should use existing tools and levers such as Outcome Agreements, Indicators and KPI's to facilitate the process of mainstreaming SD.
- We also agree that the Outcomes agreed by Local Service Board would be the most appropriate way of delivering the duty on a local level – in Carmarthenshire there is a strong history of working in partnership and in our recent Integrated Community Strategy (Single Integrated Plan) we have agreed 5 shared outcomes that together deliver social, economic and environmental benefits.

Reporting

- We agree with the proposal to report through existing reporting mechanisms but need to ensure that they are robust and consistent.
- Through Carmarthenshire County Council's Performance and Improvement Framework our Improvement Plan and Outcome Agreements are delivering social, economic and environmental wellbeing and are aligned to the Integrated Community Strategy outcomes. Monitoring and reporting mechanisms are already in place and are well established – the new duty would strengthen this approach.

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

- Should such a body be considered necessary then its role and remit needs to be focused and then adequately resourced to enable it to have the capacity to add real value, without duplicating work currently being undertaken by various other organisations.
- The UK Sustainable Development Commission produced quality, independent reports and resources before it was abolished. A Wales SD body could provide a valuable research contribution to facilitate a more evidence-based approach to policy making and target setting – especially in relation to *Futures* work (c.t. work on climate change adaptation).
- With limited resources support may be best utilised for enabling collaborative learning and sharing, building on existing support available (e.g. through WLGA’s SD Framework) rather than supporting individual organisations directly.
- The relationship between the Body and the AGW/WAO will be critical in terms of delivering the aspirations within this Bill.

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

- A stepped approach would seem sensible and fair, recognising that organisations are currently at different stages and have varied capacity.
- It appears logical to phase the introduction of the duty as it allows for the Guidance to be produced (and then reviewed/refined) in advance of proposed implementation.

Establishing the new body

- We believe that a shadow independent SD Body should be set-up while the Bill is being passed so that it can come into being as soon as the Act is passed. It can also help to develop Guidance, measures/indicators, capacity and support during this time in collaboration with organisations that will be subject to the duty.

Measuring Progress

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

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

Role of the AGW

- We welcome the proposals to embed scrutiny and accountability within existing frameworks (5.3). However we have concerns about the current audit regime (whether this is fit-for-purpose) and the relevant sustainability capacity and expertise within WAO to undertake this function.

- Under the current audit regime it is difficult to allow for creativity and innovation therefore the SD Duty should ensure that it does not stifle innovation within organisations, but allows for flexibility for different approaches to be adopted. This process needs to add value, not make us more risk averse.
- Any accountability framework needs to be incorporated into mainstream work of Audit Office and not be unduly burdensome. Where an organisation can demonstrate a track record of achievement then any framework should be 'light touch'.
- No information is given about internal scrutiny processes to ensure that decision making is challenged internally.

Question 5: Do you have any related issues which have not been specifically addressed, for example with regards the implementation of the proposals?

- Organisations captured under these proposals should have an opportunity to comment upon and influence any specific Guidance that may be issued to support the White Paper.
- Have Welsh Government considered the cost implications of delivering the SD Duty – at a time when all organisations are having to deliver cuts and efficiencies it is critical that this is not seen as something that will drive up costs.
- Large parts of the organisation work with the private and third sector – how will this Duty affect them? Will they too be expected to 'comply' with the Guidance that is issued? Many of these organisations may not be resourced adequately to allow them to respond and we will have to be careful that it does not impede future development be it in the physical form of bricks and mortar or social and community development.

Cynnal Cymru – Sustain Wales (Cynnal)

Sustainable Development Bill – White Paper consultation

Response

General comments

We welcome that the Welsh Government (WG) is putting a Bill in place and is consulting on the process. That this legislation appears to be rare if not unique in the world has generated a sense of pride and real pleasure, and a willingness from stakeholders to help to ensure that this is the best that it is able to be.

This latter brings a challenge to some stakeholders. There is a tendency among some to be caught in the net of ‘the tyranny of the perfect’ – to try to ensure that any word or phrase reflects, in the eye of the drafter, the perfection aspired. Cynnal has welcomed the aspiration but also recognises that the drive to achieve perfection can generate a perception in some that what we have is simply not good enough. Cynnal understands the drive to perfection but also is attempting to balance that with the recognition that this is a very welcome attempt to ensure that all decisions made, are made through the prism of sustainability, guided, indeed directed, by the framework of sustainable development. We must not lose sight of the fact that this is a genuinely thrilling step towards a more sustainable future.

Overall, we are pleased that the proposed Bill will be a Framework for Sustainable Development (SD), within which all decisions will be taken, thus ensuring the correct direction of travel for Welsh Government and the Public Service Organisations (PSOs) is always towards sustainability.

We have, however, some concerns about the White Paper, identified below.

Definition of Sustainable Development

We welcome that the Bill is to be a framework bill: but – how can anyone realise the aspiration of sustainable development if there is no clear definition as to what this means? Thus, it is our belief that a clear definition of SD must be at the heart of the eventual legislation.

We consulted with our stakeholders on this process and have had several examples sent to us of definitions and of the direction of travel for the Bill. Clearly, many support the eponymous Brundtland Report, whilst others are content with that shown within the “One Wales, One Planet” report. Friends of the Earth in Wales has produced a worthy, albeit not snappy, definition: [*slightly adapted here*]

“Sustainable development in Wales means moving towards a way of life capable of being continued indefinitely by all of earth’s people who might aspire to it. By protecting and enhancing the economic, social and environmental well-being of people and communities, applying the preventive, precautionary and polluter pays principle, we will achieve a better quality of life for our own and future generations. By promoting participatory democracy, social justice and equality of opportunity and enhancing the natural environment [*whilst*] respecting its limits, we will sustain our cultural legacy, while using only our fair share of the earth’s resources.”

The additions to 'One Planet, One Wales' are based on the EU Treaty¹ and on the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)².

A definition that is a little more concise comes from the International Institute for Sustainable Development. IISD uses the Brundtland definition, and they add their explanations as below:

"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:

- *the concept of **needs**, in particular the essential needs of the world's poor, to which overriding priority should be given; and*
- *the idea of **limitations** imposed by the state of technology and social organization on the environment's ability to meet present and future needs."*

All definitions of sustainable development require that we see the world as a system—a system that connects space; and a system that connects time. When you think of the world as a system over space, you grow to understand that air pollution from North America affects air quality in Asia, and that pesticides sprayed in Argentina could harm fish stocks off the coast of Australia.

And when you think of the world as a system over time, you start to realize that the decisions our grandparents made about how to farm the land continue to affect agricultural practice today; and the economic policies we endorse today will have an impact on urban poverty when our children are adults."

Reflecting the responses of our stakeholders, Cynnal would wish that there be a definition, akin to that of the IISD, in primary legislation, i.e. on the face of the Bill, a definition that accepts the sort of good practice highlighted in the above definitions but also reflects the specific milieu of Wales, its language and its culture. The closest example we can find, reflecting that latter point, is that of the UN Global Compact Cities Programme, summarised more digestibly on Wikipedia (http://en.wikipedia.org/wiki/United_Nations_Global_Compact#The_UN_Global_Compact_.E2.80.93_Cities_Programme) with a graphic that moves beyond the traditional three interlinking circles of the economy, the environment and society, to add the complexities of culture.



¹ <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-3-union-policies-and-internal-actions/title-xx-environment-climate-change/479-article-191.html>

² <http://www.unece.org/env/pp/treatytext.html>

Cynnal remains concerned that “well being” as part of the outcomes of this could water down the eventual legislation. SD is more than well being.

The Duty

There has been much discussion on the strength – or otherwise – of the proposals in the White Paper as to the Duty. We reflect the views of our stakeholders that this should be a “strong” rather than a “weak” Duty. By that, one means that it is stated as a clear “this must be done” rather than a strategy that must be followed. This does not mean that the Duty cannot be supplemented by statutory guidance or indeed a strategy for implementation – but the Duty must be a clear statement with, as necessary, remedies for failure to deliver, remedies which do not appear in the White Paper.

Cynnal has adapted elements from a range of stakeholders on this.

We would expect the duty to lead, within a specified timetable, to clear actions by the Welsh Government and PSOs in Wales, which would, amongst other things:

- clearly drive down carbon and other greenhouse gas emissions
- create and sustain ‘green jobs’
- promote ethical, fair trade and sustainable procurement by the public sector
- drive sustainable and ethical action by businesses that are supported by the Welsh Government in relation to their activities domestically and internationally
- deliver public services which meet the needs of the people of Wales
- deliver policies and actions that address poverty and deprivation
- reflects, respects and actively supports the culture of Wales
- promotes and facilitates the Welsh language.

We strongly recognise that “business as usual” will not deliver the changes that are needed.

A possible duty could be framed as follows:

“Public authorities must exercise their functions in order to achieve sustainable development.”

This specification of “achieve” rather than for example “consider” is vital if the Duty is not to be watered down, to be a “weak” duty. This does not curtail any additional guidance.

Our stakeholders seem united in that the Duty needs to be towards achieving SD, not merely pointing towards it and that the Duty takes into account the precautionary principle, as well.

The SD Body

Here our stakeholders appear a little conflicted. Some were kind enough to suggest – why have an SD Body when Cynnal exists? But, given that the concept of a new SD Body is within the White Paper, we make the following observations re the SD Body

It needs to be resourced properly if it is to be effective. Examples of other broadly similar structures in Wales were mentioned to us, such as the Commissioner for the Welsh Language (*an annual budget of some £4.1m*), and the Commissioners for Older People and for Children (*£1.8m each annually*).

Cynnal recognises that this would be a challenge in a time of austerity but appropriate funding must be provided if the Body is to be effective.

We believe that the good example of the Equality Councils could apply, whereby the Body has two distinct elements to it, the one for hand holding, support, guidance and research; the other for enforcement and in effect, “teeth”. Cynnal fully recognises this duality but would wish that this be further explored especially with regard to the clear direction taken by the White Paper and its statement that the Wales Audit Office will be the regulatory authority. We remain unclear why the sustainable development duty, as a core principle of Public Sector Organisations (PSOs), needs to be driven through the work of the Auditor General, when other Commissioners have their own powers?

We strongly support the Minister for Environment and Sustainable Development’s comments on the launch of the White Paper consultation that “the new Body must be a critical friend” of the Welsh Government.

The Commissioner

We welcome that there should be a Commissioner to lead the new Body; we remain unsure as to what s/he should be called. A Commissioner for Future Generations has been mooted and a Commissioner for Sustainability also; Cynnal believes that, whatever the title, the support for her/him must be fully funded to ensure that s/he can do the job that is needed to be done.

The phasing

Cynnal is somewhat conflicted with the idea of phasing. On the one hand, pragmatically, it makes sense to allow that some PSOs be given the time to adapt; on the other hand, would it not be better that all PSOs must respond to the legislation equally and at the same time? We are also unsure about which PSOs should be phased in, first. For example, the housing associations/RSLs are a huge part of Wales’ culture and community: should these not be brought in earlier?

Other observations

We feel there is too much room for a lack of engagement (*pace* paras 2.13 and 2.14) if the National Principles are not strictly adhered to. By the WG’s own admission, engagement is vital to effective delivery and so must be a key part of the implementation of the core principle and the Duty.

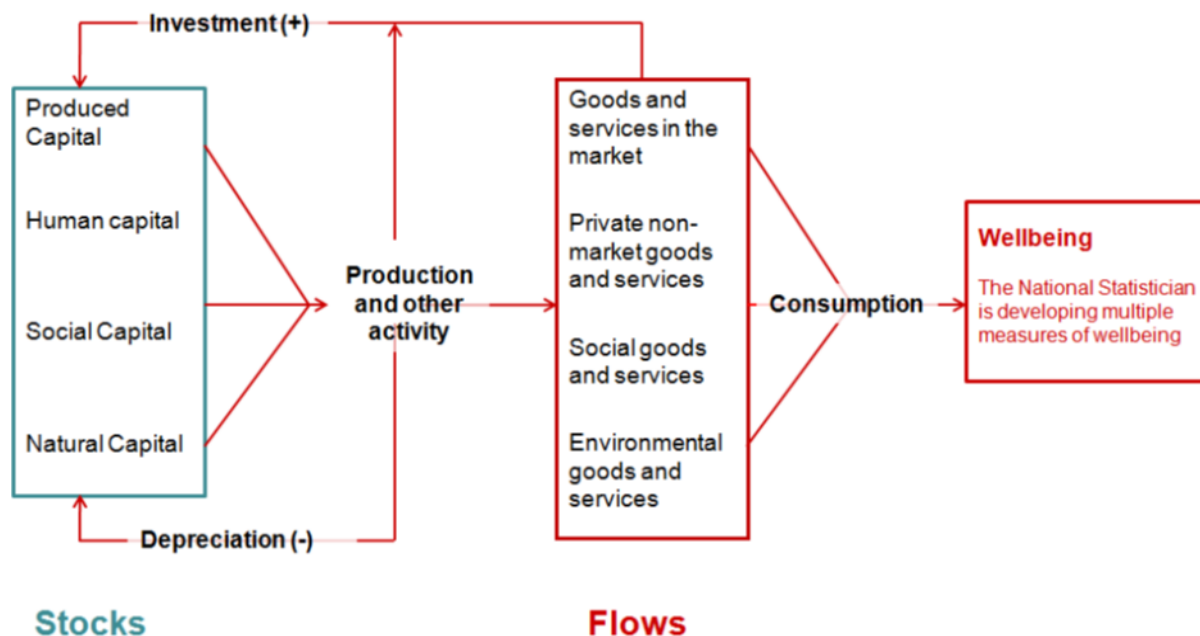
We welcome that, in 2.21, the White Paper extols the link between decision making and outcomes. We support a strong indicator set for sustainability. Beyond offering the help of Cynnal in developing appropriate indicators, we also offer, below, a considered and helpful observation from one of our stakeholders as to an approach to the implementation of this, and how one assesses and monitors it.

“The key issue for public bodies in making Sustainable Development their central organising principle is how to incorporate it into the *ex-ante* assessment (including option appraisal), monitoring and evaluation of their programmes and projects. This requires the use of social cost-benefit analysis that would capture environmental externalities together with a commitment to the stewardship of a number of key capital stocks, which should include natural capital along the lines of the UK National Ecosystem Assessment of 2011. The Government Social Research Service (GSR) noted in 2011:

“The ‘capitals approach’ emphasises sustainability in cost-benefit analysis, which usually focuses on the flows. This is important in terms of whether the stock of wealth-creating and wellbeing-enhancing assets we pass on to future generations is better or

worse than what is available to us today, and is a key analytical component of mainstreaming sustainable development.”

The GSR report, building on earlier work by the Government Economic Service (GES 2010) and reflecting the approach of academics like Jules Pretty (Pretty 1998), identifies natural capital, human capital, social capital and manufactured physical capital:



I would recommend adding Cultural Capital to the stocks, even though comparatively little work has been done so far in analysing this. There is little literature yet on cultural economics, however NESTA (*the National Endowment for Science, Technology and the Arts*) has done work on assessing cultural value and the Arts and Humanities Research Council has launched a £2m multi-disciplinary research programme on the subject.

If Social Capital generates the values adopted by Civil Society, it is Cultural Capital that defines the nature of those values. “

Missing elements

Procurement

We have been strongly pushed by our stakeholders, especially from the business community, that procurement must be included within the Bill. The Business Council for Sustainable Development was especially insistent that this needs to be the case, with one quote being: *“The Welsh Government is to be congratulated on taking this courageous step of an SD Bill but, given how huge the public sector procurement budget is, in Wales, one has to ask how any duty towards sustainable development can be achieved without sustainable procurement and the related criteria?”*

Budgeting

On a similar vein to procurement above, we feel that the budget setting and viring process must also be included within the constraints of the SD Bill. This adds an extra layer of compliance to PSOs to encourage that decision making remains as if through the prism of sustainability.

Reporting

The process for the Climate Change Commission for Wales is that it produces an Annual Report to government, to which the Minister must reply, on behalf of Government. This tier of accountability appears to be missing from the White Paper. It does not seem logical that a sustainability Commissioner and an SD Body can exist but has no power to demand that a response to a formal Report be forthcoming. We would recommend that this anomaly be addressed in the eventual Bill.

Training and development

It is abundantly clear that, for all PSOs to be able to respond to the SD imperative, there is a huge need for appropriate training and development. This needs resourcing.

Cynnal would be happy to assist Welsh Government to be able to devise and deliver appropriate training.

A draft Bill

Whilst it is clear that a White Paper is not a Bill, in some quarters it is felt that it should probably lay out what an eventual Bill would look like.

Cynnal commends to the government the work undertaken by the SD Alliance in offering several drafts of a potential Bill.

Whilst there is a danger of a Bill being drafted that satisfies only a specific audience, some of the examples seen by us have been simple and clear.

We welcome assisting the Government, and the Assembly, in any way we can during the eventual drafting process.

**Cynnal Cymru – Sustain Wales
March 2013**



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

EAUC Consultation Response

Sustainable Development Bill – White paper

Formal response: submitted 4th March 2013

ABOUT US: The Environmental Association for Universities and Colleges is the sustainability body for tertiary education in the UK. The EAUC seeks to work with members and partners to drive sustainability to the heart of further and higher education.

The EAUC Vision is a university, college and learning and skills sector where the principles and values of environmental, economic and social sustainability are embedded.

Our Mission is that we will lead, inspire and equip Members and stakeholders with a shared vision, knowledge and the tools they need to embed sustainability within curriculum and operations.

Our membership is made up of over 300 member institutions comprising some 3700 professionals.

This consultation response has been compiled in dialogue with our university and college members in Wales to whom we are very grateful.

EAUC CEO

Registered Office : EAUC UK Office, University of Gloucestershire, The Park, Cheltenham, GL50 2RH
Tel : 01242 714321, info@eauc.org.uk, www.eauc.org.uk

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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?

Sustainable development (SD) has to be given a higher profile to achieve the aim of creating a truly sustainable Wales. The new duty has the potential to do this by raising the status of SD among government, public bodies and the wider public; it can help enable more long term, joined up decision making.

We welcome the approach that the duty will apply to the strategic decision making processes, the processes by which decisions are made and outcomes are achieved. The importance of this duty in accounting for social, economic and environmental factors in decision-making cannot be understated and therefore a focus must be maintained on making clear the implications, for organisations, of the term 'the central organising principle'. Embedding sustainable development means that this must be 'the' central organising principle rather than one of a number of organising principles in order to ensure that the true strength of this ground-breaking legislation does not become weakened.

Rather than being seen as a barrier to investment by business, we would want to see the sustainable development duty promoted as a benefit. Wales can be at forefront of developing some of the skills and expertise in the field of sustainability, particularly in areas of international research expertise existing within Wales.

We support the proposal for statutory guidance and believe that absolute clarity in defining sustainable development, social, economic and environmental wellbeing is critical to effective implementation of the proposed legislation within organisations where decision-making is outcomes based. Further, we are encouraged to learn that the proposed legislation will integrate future and existing legislation. We support the flexibility offered by the legislation for organisations to determine the most effective ways of achieving outcomes and the need to ensure indicators of progression which reflect high level the strategic decision-making process. We are also pleased to see that existing annual reporting arrangements can be used under the obligations laid out in legislation.

We welcome the statement that “The Welsh Government recognises the need to take into account the impacts outside of Wales given that Wales’ wellbeing cannot be seen in isolation.” Indeed it would be right to support and encourage international partners also to develop in this area, and this approach could also complement Welsh SD skills development and business partnership development referred to above.



Q2: What are your views on the proposals for an independent sustainable development body?

We welcome the proposal for a new SD body to include high level, cross sector representation and to challenge Government and organisations when needed.

We believe the responsibility of the independent body to challenge organisations is a critical role if sustainable development as a central organising principle is to be 'driven' within organisations. We believe that the body itself must provide assurance that public funds are being used in a way that provides value-for-money and provide annual reports on progress and therefore we welcome this aspect of the proposed legislation.

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?

We believe that many educational organisations are already progressing with sustainable development issues and many have well established strategies. We suggest that the phasing timeline for FE/HE should be brought forward to 2015. We support the phasing timeline for the independent body as this clearly needs to be in place as the Bill comes into force.

Q4: What are your views on the proposals to improve the accountability framework for sustainable development in Wales?

Ensuring accountability via existing compliance audits and frameworks for sustainable development is welcomed.

We welcome the plan to consult on the sustainable development indicators. Improving the indicators and the way progress is measured is vital for informing policy development and taking action on sustainable development. Critically, and underplayed in the past, conflicts and synergies between indicators of SD should be recognised and explicitly dealt with at all stages.





Q5: We have asked four specific questions. Do you have any related issues which we have not specifically addressed, for example with regard to the implementation of the proposals? Please use the consultation response form to express your views.

Educational organisations have a unique opportunity to help students become the change-makers of the future in addition to ensuring that students are not simply 'work-ready' but 'future-ready'. Indeed, we believe that this is a right of students. ESDGC has a fundamental role in this respect and we believe that, in addition to the arrangements within the ESTYN framework, ESDGC requires a specific legislative entry.

Registered Office : EAUC UK Office, University of Gloucestershire, The Park, Cheltenham, GL50 2RH
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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:
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CONSULTATION FORM

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
Name	Helen Murray	
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E-mail address	helenm@planed.org.uk	
Type <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 checked="" 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]
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Please provide your views below:

PLANED welcomes the aspiration to create a duty to which public service organisations will be expected to adhere, and which will help Wales to be a leader in this field. We welcome the acknowledgement that it is "not about creating an extra layer of bureaucracy or imposing extra burdens" but are not sure how, in practice, a "better governance framework" will translate on the ground. We have some concerns about the proposals and would make the following observations:

1) language - PLANED understands that this is a key strategic document, but would urge the use of plain language and more practical examples throughout, to assist with clarity and understanding.

2) commitment - if there is only the requirement for bodies to consider long term implications before making decisions, but not commit them to act in the interests of the long term, it is unlikely to make a great difference. PLANED would like to see the focus of an SD Bill to shift to an economy based on Wales' own resources, including human and cultural, one that protects and enriches them rather than depleting them.

3) the actual 'teeth' of the duty - what will be the expected outcome in practice, rather than simply the development of a strategy. While we recognise the value in the duty focussing on policy and corporate planning (2.25), there will need to be careful scrutiny about how this cascades to delivery of outcomes in other departments. Similarly if there is to be no direct application of the duty to budgetary and procurement processes, it will still need to be made very clear about how these are expected to deliver outcomes that embrace sustainable development (SD) principles.

3) preparation and resources - 2.21 states that there will be "a requirement for organisations to have clearly set out the outcomes that they are working towards". PLANED believes that there will need to be a process of development and understanding before that can happen meaningfully - individuals need to grow their capacity to be able to truly embrace SD in outcome planning. This will need to be resourced in some way.

4) LSB (2.32) - Single Integrated Planning is still a developing process, and while the first plans will be in place by April 2013, our experience to date is that they still have some way to go in terms of "intensive engagement with citizens and communities". Further guidance and examples of good practice will need to be shared if this is the vehicle proposed for collaborative working in the true sense of SD.

5) Organisations subject to the duty - the list is wide ranging and the capacity of the organisations to deliver will vary hugely. While PLANED agrees in principle with the inclusion of Town & Community Councils we are clear from experience that their capacity and in a lots of cases, SD knowledge, is limited.

Q2

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

Please provide your views below:

PLANED would support the need for an independent body, but within certain parameters and with some concerns:

The body should provide support to the Commissioner (who's role and authority should be further clarified) and for the role that is suggested in 3.1. We would not want another layer of bureaucracy to be created, and would question how the Commission would be chosen in order to be truly independent.

PLANED would not support the idea that all of the knowledge base and guidance should be sourced from the body's staff: rather that they act as co-ordinators, pulling in existing knowledge and experience and practicing integration and collaboration (SD) themselves. (3.17) Better use needs to be made of existing partnerships and organisations, and while initially more laborious would avoid the "child in the sweet shop" scenario, of another new body.

PLANED would have concerns about staff falling back into 'silos' - it is better that they act as links/conduits directly to the expertise - as in a development officer role, and are therefore more likely to be able to be critical friend. PLANED is of the belief that there is no need to create a new resource, rather just co-ordinate activity / experience that exists.

There is a clear need for training and development amongst the public sector and more widely, as well as 'thinking out of the box, innovation and looking outside and internationally for good practice. Similarly co-ordination of this activity needs to happen, but there is probably little need for anything 'new'. (3.9.) While we agree with the sentiment of the paragraph we do believe that WG should reiterate what the solution is expected to address – 'setting the goals' are important to focus the direction.

The body will need to be adequately resourced, and able to 'buy'in expertise for the purpose of transferring good practice. Additional resources may also need to be identified / available to the public service organisations seeking to build their members capacity.

PLANED would suggest that the complexity of providing on one hand the support and development role, and on the other the challenger and even being critical needs further thought and clarity of boundaries.

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:

PLANED recognises the need to phase, but does have concern over capacity both for delivering training and development, particularly of councillors and other volunteers, and their knowledge, commitment and confidence. The Body will need to be fully up and running ready for the demand likely to be created by the duty.

Phasing will allow for some learning from the better funded organisations to pass to those in the 2nd and 3rd phases

The expectations of organisations should be the same, but the penalties and extent of criticism should reflect the size / capacity of organisation. PLANED acknowledges that this will be very challenging for those organisations who are virtually unfunded ie Town & Community Councils.

Measuring progress - SD indicators are a good reflection of the current situation, but are only the first bit of the data. They do not comment on expected progress (other than retrospectively in comparative graph form), influencing factors, or issues that need to be tackled. PLANED would suggest that when the data is interpreted and applied in context through an annual report or similar, the opportunity to recommend the overall future direction that WG and other public service organisations (PSO) need to take should also be set out.

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:

Only comment here would be that there will need to be complete clarity between the role of the new SD body as a 'critical friend' and the scrutiny of the Auditor General Wales.

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:
As we have stated previously, the need and resource for training and development should not be underestimated within the timescales set.

PLANED would suggest that the decision not to oversee procurement and budgeting be reviewed and the impact evaluated after Phase 1.

As we have stated in previous consultations, the siting of SD with the environment ministerial portfolio, continues to perpetuate the idea that they are one and the same. While SD is supposed to be a central organising principle, the strongest message would be conveyed if SD were to sit within the economic or social care portfolio for instance!

PLANED has over 20 years of experience in cross-sectoral integration and has developed methodologies specifically based on SD and collaboration for use in community planning, capacity building and other applications. We have also developed transnational partnerships, sharing good practice and most recently training Finnish and Czech Republic rural development organisations in the use of the SD Tool. All of this experience would be available to PSO (on a cost recovery basis as we are not core funded). In addition we are about to begin a four year project with One Voice Wales and Hywel Dda Health Board amongst others (through a Lottery funded Community Voice project) specifically about the role of citizen engagement and local service planning, which could provide learning and experience for other PSO through the phases.

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: <input type="checkbox"/>

How to respond

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

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

Additional information
If you have any queries on this consultation, please contact us by email or telephone: Email: SDBill@wales.gsi.gov.uk Telephone: (02920 82) 1728 or 6541

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CONSULTATION FORM

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
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Organisation	Constructing Excellence Wales	
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Type <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 checked="" 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]
<p>Please provide your views below:</p> <p>Introduction: Constructing Excellence Wales (CEW) is an independent not-for-profit organisation, grant aided by the Welsh Government to promote sustainable best practice in the construction and built environment sector in Wales. CEW also manages the Welsh Government’s Construction Waste Programme and the Wales Low Zero Carbon Hub for the built environment in Wales.</p> <p>The built environment sector in Wales comprises over 11,000 enterprises supporting more than 24,000 SME’s through their supply chains and has a large part to play in sustainable development. Constructing Excellence Wales (CEW) brings individuals and organisations together to share their experience and knowledge of sustainable best practice and influence real change in practice. CEW’s consultation response is therefore made in terms of its work in the built environment.</p> <p>A different direction: CEW supports the new duty which will provide a good basis for greater consistency in the understanding and application of sustainable development principles to decision making. Our experience of the built environment suggests that individual organisations or voluntary action alone can not achieve the change that is needed. Sustainable development requires everybody to work together and the proposal for a legal duty to embed sustainable development as the central organising principle of the wider public service is welcomed.</p>	

Q2

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

Please provide your views below:

CEW agrees that the public service organisations will require support in carrying out the duty and supports the proposal for an independent body that can fulfil this function. In addition to the proposals for implementation (Ch.4) and accountability (Ch.5), an independent source of advice and guidance will be necessary to achieve consistency in strategy and practical implementation. CEW supports the establishment of the body on a statutory basis as this will give it the necessary authority and capability to fulfil these functions, and allow the possibility of it acting as a statutory consultee if necessary.

Role and functions: CEW agrees that the purpose of the new body should be to provide advice, guidance and support to the organisations on implementing the new duty and delivering sustainable outcomes. This will also require support and guidance in the practical implementation of the duty. For practical reasons of assembling the necessary expertise, as well as budgetary constraints, the independent body will not be able to provide all of these functions itself. The body must be the means of drawing together and accrediting expertise and knowledge from other bodies, and coordinating it. Within the built environment, CEW is one such body providing best practice information and advice.

Formal guidance should be developed by the new body in partnership with the WAO/AGW and published in draft

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:

Phasing of the duty: CEW believes that the statutory duty should be introduced at the same time for all organisations, with its implementation phased. Promoting the principles of sustainable development demands a coordinated, comprehensive approach and it would be beneficial if all the organisations can be involved at the same time, working with each other and the body to prepare. With the duty phased over three years, the opportunity will be lost to promote a collaborative, Wales wide approach that sustainable development needs. The reason for the phased introduction of the duty appears to be to allow time for guidance to be prepared. CEW believes it would be preferable to establish one date for all and then allow organisations to develop their strategies for implementation to a timetable agreed by the body. This would enable a comprehensive, coordinated and shared development of the necessary guidance. In the two years up to April 2015, the Welsh Government and an interim independent body could work with the organisations to agree a programme of implementation.

In the built environment, all the organisations will face the same challenges and will learn from each other. The principles of sustainable development are the same for all types of construction activities, whether carried out by the Welsh Government, NHS Trusts, local authorities or RSLs. It would be better if the organisations and their partners could work together with the body in developing the necessary targets, indicators and guidance. CEW see this as a collaborative process, which is how we work now with the built environment sector in promoting best practice. There would be great merit in the organisations working together to agree shared best practice and

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:

Phasing of the duty: CEW believes that the statutory duty should be introduced at the same time for all organisations, with its implementation phased. Promoting the principles of sustainable development demands a coordinated, comprehensive approach and it would be beneficial if all the organisations can be involved at the same time, working with each other and the body to prepare. With the duty phased over three years, the opportunity will be lost to promote a collaborative, Wales wide approach that sustainable development needs. The reason for the phased introduction of the duty appears to be to allow time for guidance to be prepared. CEW believes it would be preferable to establish one date for all and then allow organisations to develop their strategies for implementation to a timetable agreed by the body. This would enable a comprehensive, coordinated and shared development of the necessary guidance. In the two years up to April 2015, the Welsh Government and an interim independent body could work with the organisations to agree a programme of implementation. In the built environment, all the organisations will face the same challenges and will learn from each other. The principles of sustainable development are the same for all types of construction activities, whether carried out by the Welsh Government, NHS Trusts, local authorities or RSLs. It would be better if the organisations and their partners could work together with the body in developing the necessary targets, indicators and guidance. CEW see this as a collaborative process, which is how we work now with the built environment sector in promoting best practice. There would be great merit in the organisations working together to agree shared best practice and

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:

Generally, CEW considers that the proposals need to focus more on how the duty will be implemented. Broadly, we see three levels of activity in achieving sustainable development: strategy, implementation and monitoring. Concentrating on decision making processes or corporate strategies will not guarantee the desired sustainable development outcomes.

CEW also believes that, although the duty will apply to the public service organisations, it must be made clear that implementation of the duty should involve collaboration with others. For the construction and built environment sector, achieving more sustainable outcomes relies on the entire supply chain and not just the public service organisations as clients or promoters. All members of the supply chain need to work collaboratively in an integrated way to provide sustainable solutions for clients.

Guidance: The effectiveness of guidance from the new sustainable development body will depend on its authority, accuracy or relevance. It is difficult to verify these qualities without having a centrally organised source of information. This cannot be the Welsh Government because it will be subject to the duty itself. Therefore the new body must be responsible for information and guidance from the outset and to be recognised as the single point for all organisations seeking information and guidance.

Confidentiality

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Higher Education Academy response to: Welsh Government Sustainable Development Bill – White paper



Date: 3 March 2013

Contact: Simon Kemp, Academic Lead, Education for Sustainable Development
Simon.Kemp@heacademy.ac.uk

The Higher Education Academy (HEA) welcomes the proposed Sustainable Development Bill. It is clear there are potentially large benefits from applying sustainable development as a central organising principle for public service bodies across Wales, including the Higher Education Institutions (HEIs). However, the HEA is disappointed about the lack of reference to the higher education community throughout the bill, other than the requirement for HEIs to be subject to the duty from 2016.

The HEA believes that the higher education academic community would prove to be a potent resource for the Welsh Government to draw upon. There is a need for the proposed independent Sustainable Development body to have the highest level of expertise in the field of sustainable development, which can be supported by members of the academic community.

The HEA would also like to highlight the lack of reference to the curriculum in the Bill. The HEA recognise that Education for Sustainable Development (ESD) is a requirement of the national curriculum throughout primary and secondary school, though it is disappointing that this is not mentioned as an existing notable achievement in the consultation document. However, if the broader intention of the bill is to create a more sustainable Wales there is a need to develop 'sustainability literate graduates' from the higher education system, which in most instances produces the business leaders and political decision makers of the future. Furthermore, there is a need for graduates to understand the sustainable development implications of decisions made in their personal lives and in the workplace. This can best be achieved by the inclusion of sustainable development as a component of all curricula, so students can apply the principle whilst studying, and the duty upon graduation, in the context of their area of expertise.

If a more sustainable Wales is to be achieved, the HEA considers that the inclusion of a requirement for ESD to be part of the wider curriculum of Welsh HEIs should be an important component throughout the Sustainable Development bill. The HEA would be delighted to offer its expertise, directly and through the Wales Education for Sustainable Development and Global Citizenship group¹, in the production of appropriate curriculum content.

¹ The Wales Education for Sustainable Development and Global Citizenship group is convened and run by the HEA and includes experts from across the HE sector.

CONSULTATION FORM

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CONSULTATION FORM

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
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E-mail address	gemma.neathey@conwy.gov.uk	
Type <i>(please select one from the following)</i>	Businesses	<input type="checkbox"/>
	Local Authorities/Community & Town Councils	<input checked="" 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]
<p>Please provide your views below:</p> <p>Sustainable Development should be embedded in the decision making process in order for the Bill to be successful. It needs to be made clear how compliance needs to be evidenced and how it will be measured, i.e. the audit criteria needs to be established and communicated.</p> <p>Organisations should already have processes in place via the corporate planning framework that identify the outcomes they are working towards. The move towards outcome orientated aims needs to be reflected within the Wales Programme for Improvement. Currently the WPI guidance is focused on improvement objectives not outcomes, and many of the PI's are process orientated.</p> <p>Using the existing frameworks to audit compliance is the appropriate way forward. There are concerns that the Bill will increase bureaucracy. It may be beneficial for a sustainability impact assessment toolkit to be developed to support organisations in evidencing how their decisions have embedded the sustainability principles and that the longterm wellbeing is integral to their business planning.</p> <p>The most recent Ecological Footprint data is from 2006. More current data is needed if it is to be used as a key SD indicator.</p>	

Q2

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

Please provide your views below:

How will the Independent body be funded? As Public sector organisations are under financial challenges would using them as a route to subsidise the costs of the body really be the way forward? A better route might be for 'sustainability being a core organising principle' being tested by existing regulatory bodies (WAO, Estyn and CSSIW) and support public bodies in achieving this aim by sharing good practice. Attaching this Sustainability element to existing structures should reduce cost and duplication.

Would organisations be able to gain access to good practice examples easily? It would be beneficial if such a body could also 'health check' organisations' policies which may change as a result of the legislation being introduced.

We agree that the Sustainable Development Body should be completely independent from Welsh Government particularly as they will be subject to the Bill. Who will regulate the independent body to ensure continuous fitness and appropriateness for purpose? Will the affected organisations be consulted on the strategic priorities and work programme prior to submission to Welsh Ministers for approval?

It is important that there is support and guidance to ensure changes are made and that the body has some form of influence in political negotiations.

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 Independent Sustainable Development body should be in place prior to the SD Bill coming into force. Organisations will be planning ahead of the implementation date and will need advice, guidance and support in the planning stages, well in advance of the implementation of the legislation. To ensure consistency it would be good if some of the SD indicators could be used to measure progress at a local level for local authorities to benchmark their performance. Guidance on how to calculate and gather data for these SD indicators would be useful for organisations.

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 that the existing governance frameworks should be used to scrutinise accountability and compliance with the legislation and the Auditor General for Wales has the knowledge and experience to coordinate and support this process. In order to evaluate organisational compliance, criteria needs to be established and communicated to organisations so they are fully aware of the compliance standards which they must meet. Are the costs to the auditees going to increase as a result of this additional duty on the Auditor General for Wales?

Organisations should be provided with the opportunity to undertake a self-assessment to establish a baseline from which to progress. A set of defined audit criteria is key to assist this process.

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 success of the proposed reforms is reliant on commitment across the board at all political levels and across all services. SD is not well understood by most people, particularly in terms of applying it on the ground in a practical way, many people are under impression that SD is just an environmental issue and that this knowledge gap could prevent principles of the Bill being implemented. Training will need to be undertaken at all levels, knowledge of SD and the ability to successfully apply its principles should be part of core management competency frameworks in the future.

We note the reference to ‘the Welsh Government will explore legislating through the Sustainable Development Bill to put the single integrated planning framework on a statutory footing...’. and we will respond to this proposal through the Conwy & Denbighshire LSB by the deadline of the end of March.

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: SDBill@wales.gsi.gov.uk 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: SDBill@wales.gsi.gov.uk Telephone: (02920 82) 1728 or 6541</p>



Stop Climate Chaos Cymru

Response to the Welsh Government White Paper on the Sustainable Development Bill

March 2013

Introduction

Stop Climate Chaos Cymru is a coalition of 14 influential Welsh organisations drawn from across civil society - environment and development groups, faith groups, women's groups, trade unions and many others - which is working to mobilise public concern and necessary political action, to stop climate chaos.

Our mandate is simple: to take socially beneficial action to prevent global temperature rises exceeding the two degrees C threshold above which the likelihood of irreversible and devastating climate change becomes unacceptable.

New research from the Climate Change Consortium of Wales shows that 73% of people in Wales believe that Wales should aim to set an example to the outside world when it comes to addressing climate change, 80% are concerned about the effects of climate change in developing countries and 90% were concerned about the effects on wildlife and the natural world [1]. There is clear support in Wales for taking ambitious action on climate change and taking responsibility for our impacts on the world and its people.

This can only be achieved within the context of sustainable development and we welcome the Welsh Government's plan for a Sustainable Development Bill. A sustainable Wales can only be achieved if there's a step-change in decision-making and implementation of policies and services in Wales.

This Bill is a once in a lifetime opportunity to set us on a path towards achieving sustainable development, with a clear and relevant definition of sustainable development, clear legal duties for public bodies and a powerful Commissioner to respond when things go wrong. We owe it to present and future generations, in Wales and throughout the world, to get this Bill right and create a sustainable Wales.

The Welsh Government's commitment to the Rio+20 process is a clear indication of the political will to set ourselves at the forefront of this international context and we fully support the Minister's aim of achieving "*ground breaking legislation on Sustainable Development*" and to "*make our legislation as strong and effective as possible*" [2]. The UN document 'The Future We Want' that takes this process forward emphasises the importance of a strengthened institutional framework on Sustainable Development and "*an action- and result-orientated approach*" [3] and we urge the Welsh Government to follow through on their international commitment with this Bill.

We share the government's aspirations to be ground breaking and introduce strong legislation and welcome the opportunity for civil society to play its part in shaping this legislation.

A Sustainable Development Bill

We are part of an Alliance of third sector organisations representing a broad range of social, cultural, environmental and international development issues, who 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.

Here are the key clauses and outline structure prepared as a starting point for discussing a Sustainable Development Bill with decision-makers and civil society in Wales.

A Sustainable Development Bill for Wales

Preamble/Recital/Long title
<i>Recognising that sustainable development means achieving a way of life capable of being continued indefinitely by all of earth's people while respecting environmental limits and-</i>
<i>Sustaining and promoting the Welsh language, culture and heritage.</i>
1 Duty to achieve sustainable development
<p>(1) Every public authority must exercise their functions so as to achieve sustainable development.</p> <p>(2) The Welsh Ministers may publish guidance on how to comply with the duty in subsection (1).</p> <p>(3) A public authority must have regard to any guidance published under subsection (2) when complying with the duty in subsection (1).</p>
2 Meaning of sustainable development
<p>(1) 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:</p> <ul style="list-style-type: none"> (a) living within environmental limits; (b) using natural resources prudently; (b) ensuring a strong, healthy and just society; (c) achieving a sustainable economy; (d) applying the preventative, precautionary and polluter pays principles; (e) using sound science responsibly; (f) promoting good governance; (g) avoiding adverse international impacts; (h) ensuring that the people of Wales use only their fair share of the world's resources; (i) sustaining and promoting Welsh language and heritage.
3 Sustainable Development Commissioner for Wales
(1) The National Assembly for Wales shall appoint a Sustainable Development Commissioner for Wales.

- (2) The Sustainable Development Commissioner for Wales may—
- (a) provide and publish advice on matters relating to the implementation and enforcement of the Sustainable Development Duty;
 - (b) conduct research and inquiries into matters which the Commissioner considers relevant to sustainable development or the Sustainable Development Duty;
 - (c) make recommendations to public bodies, including Ministers and the National Assembly for Wales in respect of the discharge of their duties under this Act;
- (3) Eligible persons may make complaints to the Commissioner in relation to any matter concerning discharge of the Sustainable Development Duty by public authorities.
- (4) The Minister may make regulations concerning complaints which may be made to the Commissioner.
- (5) 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.

4 Resource use – monitoring and review

- (1) The Commissioner must publish no later than 31 January each year a report setting out the use of resources in Wales during the relevant period.
- (2) The reference to the use of resources in subsection (1) includes the use of resources in connection with goods and services imported into Wales during the relevant period.
- (3) Each report must address use of the following resources —
- (a) land;
 - (b) materials;
 - (c) water; and
 - (d) climate.
- (4) The use of land shall be measured by reference to the total number of hectares.
- (5) The use of materials shall be measured in tonnage, including sub-totals of the tonnage of biological and mineral materials used.
- (6) The use of water shall be measured in litres.
- (7) The use of the climate shall be measured in tonnes of CO₂ equivalent.

5. Interpretation

“public authority” means an authority that has functions of a public nature;

“public function” means a function, which is a function of a public nature for the purposes of

the Human Rights Act 1998;

“relevant period” means the year ending on 31 December immediately preceding the date on which the report under section 4 is required to be published;

“sustainable development” has the meaning given in section 2;

“Sustainable Development Duty” means the duty set out in section 1(1).

We look forward to working with the Welsh Government and others in developing this proposal and shaping a sustainable Wales.

Notes

[1] Capstick, S.B., Pidgeon, N.F., and Whitehead, M.S. (2013). *Public perceptions of climate change in Wales: Summary findings of a survey of the Welsh public conducted during November and December 2012*. Climate Change Consortium of Wales, Cardiff.

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

[3] UN (2012). *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

Stop Climate Chaos Cymru member organisations are: National Federation of Women’s Institutes Wales, National Union of Students, Unison, Christian Aid Wales, CAFOD, Oxfam Cymru, Tearfund, Coed Cadw – The Woodland Trust, Friends of the Earth Cymru, RSPB Cymru, Sustrans Cymru, WWF Cymru, Wildlife Trusts Wales, The Centre for Alternative Technology.

www.stopclimatechaoscymru.org



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Policy Response



A Sustainable Wales Better Choices for a Better Future: Consultation on proposals for a Sustainable Development Bill

A response from WCVA

March 2013
WCVA
Baltic House
Mount Stuart Square
Cardiff
CF10 5FH

Wales Council for Voluntary Action

A response to the consultation : A Sustainable Wales Better Choices for a Better Future: proposals for a Sustainable Development Bill

1. Introduction to WCVA

Wales Council for Voluntary Action represents, campaigns for, supports and develops voluntary organisations, community action and volunteering in Wales. It represents the sector at UK and national level; and together with a range of national specialist agencies, County Voluntary Councils, Volunteer Centres and other development agencies, it provides a support structure for the third sector in Wales. It has over 3,000 members, and is in touch with many more organisations through a wide range of national and local networks.

WCVA's mission is to provide excellent support, leadership and an influential voice for the third sector and volunteering in Wales.

2. Introduction to our response

We very much welcome the Welsh Government's continued commitment to embedding sustainable development. However, we believe the current White Paper proposals will not deliver on this ambition as it falls short of the political commitment required and the third sector hopes for world leading legislation that will help enable a sustainable Wales.

We strongly believe, based on evidence, that to achieve the intended effect of sustainability and sustainable outcomes - for sustainable development to be the central organising principle - the new duty needs to cover the key functions on the public sector which have impact on its service provision, operations and spending.

The duty is part of the institutional framework which will help deliver sustainable development but it needs to be based upon on a clear and strong definition of sustainable development and a vision of what a sustainable Wales would look like. Consultation with our members and the analysis of the consultations responses to the initial Welsh Government proposals all expressed the need to clearly define sustainable development.

A strong and independent Commissioner is needed to support, monitor and hold the public sector accountable for the delivery of sustainable development. It also needs to be a champion for present and future generations and encourage the participation of civil society.

WCVA is 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 develop our position and approach for a sustainable development bill in Wales. As we believe the White Paper does not deliver on political or civil society's ambition, in consultation with lawyers, we are currently developing details of alternative formulations and drafting some key elements and structure of a bill, which we think will be effective. Some of these key elements which are included this consultation response. See Annex 1 for the current drafting. We will also welcome discussion with the Welsh Government around this when finalised shortly.

3. Question 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?

3.1 Definition of sustainable development

Consultation with our members and the analysis of the consultation responses to the initial Welsh Government proposals all expressed the need to clearly define sustainable development. We do not believe the White paper has provided this and there are also specific concerns on the interchanging and prioritising of 'wellbeing' over sustainable development in the Bill. These include:

- The substitution of 'wellbeing', particularly 'environmental wellbeing' for the more clearly explained definition and principles of sustainable development. Legal opinion concurs with our view that wellbeing, when used in any context apart from its usual general meaning of 'human wellbeing' adds nothing to the understanding of 'sustainable development'. Such unspecific language may be appropriate in publicly focussed communications or in policy documents but legislation requires an analytical approach to terms used and the precision of their definition is important.
- Despite the fact that 'environmental wellbeing' appears in the Government Of Wales Act 2006 and Local Government Act 2000, those Acts have not defined what this means. Parliament has provided a limited definition in the 2006 Act but only in relation to individuals, not the environment. This definition reinforces its use in the normal broad, non- technical way.
- If Welsh Government persists in replacing use of sustainable development with economic, social and environmental wellbeing, the Bill will need to clearly define these. We suggest that doing this will lead to 'wellbeing' competing with, and undermining Sustainable Development as the governing principle. This could result in the creation of a wellbeing duty rather than a sustainable development duty.
- The legal view is clear that the conflation of well- being and sustainable development is a concern. The use of wellbeing does not seem to add anything to the understanding of sustainable development.
- The concept of "wellbeing" strongly implies a focus on the quality of human experience, an analysis that is much narrower in scope than the global type of assessment that is enabled (indeed, required) by the concept of sustainable development. Attempts to create new meanings for this legally are likely to cause confusion (and perhaps future legal challenge).

The Rio+20 Conference confirmed a common global vision not for improved wellbeing but for an economically, socially and environmentally **sustainable future** for the planet and for present and future generations. Our proposed definition would be based on the Brundtland definition and incorporate international recognised principles of sustainable development reaffirmed in Rio + 20 and could be constructed as:

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:

- (a) living within environmental limits;

- (b) using natural resources prudently;
- (b) ensuring a strong, healthy and just society;
- (c) achieving a sustainable economy;
- (d) applying the preventative, precautionary and polluter pays principles;
- (e) using sound science responsibly;
- (f) promoting good governance;
- (g) avoiding adverse international impacts;[link to (b) and fair shares concept]
- (h) sustaining and promoting Welsh language and heritage.

3.2 Scope of Duty

The White paper only proposes that strategic decision making processes are taken with 'consideration' of sustainable development. We do not believe this strengthens the existing duty 'to promote' and fear it may actually weaken it. We suggest that the duty needs to require public authorities 'to achieve' sustainable development'.

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 high level strategic decision making. Our experience and gathered evidence suggests this will not happen at the scale and pace that is required for us to achieve a resilient and 'One Planet Wales'.

The proposition that high level decisions and principles trickle down from strategic level to operational decisions and therefore there is no need to include specific operations, budgeting and services in the duty has been questioned within the Welsh Audit Office Report 2010. It suggests that having a sustainable development duty as high level with no prescription to 'promote' (GoW Act) does not necessarily affect key aspects of governance that lead to sustainable outcomes. To address this, the Welsh Audit Office's main recommendation is to: "Embed sustainable development in the Assembly Government's governance procedures, financial planning, core business planning processes, change programmes and human resources processes."¹ Based on this evidence, we suggest that as well as the Welsh Government's proposed duty to affect high level decision making, it also needs to explicitly include operational activities, financial and core business planning, and procurement. In our view, to meet the shortcomings identified by Auditor General and produce different outcomes for Wales, then most of the functions of public bodies must be subject to the duty. Many leading lawyers are clear that this requires a 'substantive duty' to be put in place. This could be achieved by wording the duty in a form similar to "Welsh Government and public bodies must exercise their powers and functions in order to achieve sustainable development'.

The Welsh Government's hesitation to having a strong duty with a wider scope appears based on concerns over the burden that this may cause for public authorities and that it may also stifle flexibility and innovation. We believe a strong and wider duty can be done in a way which results in neither of these. For example, there can be various forms of the duty that can apply to different levels of decisions to ensure that the duty is appropriate for the specific type of decision. Consideration can be given to the nature of the decision being made, the type of actions that could be taken to ensure that sustainable development is properly factored into that decision and how that could be translated into a positive duty or obligation. It should be 'proportionate' response for different levels of decision-making which would allow flexibility.

¹ WAO 2010, page 13

Whilst it may be viewed as ‘burdensome’ by some local authorities, we suggest that embracing the innovation and change that sustainable development will mean to the choices we make about our public services leads to more effective decisions and ones which better meet community needs. You cannot expect sustainable development as a central organising principle to be implemented without a shift in current culture, which may feel ‘burdensome’ to those who do not understand the benefits and/ or where change management is not properly supported. The Effectiveness Review 2012 highlights² that: ‘One of the tests of a developing capability and effective mechanisms is that decisions should result in “smarter and not harder” ways of working. There is good evidence to show that where SD is embedded in policy and decision making the results are better, more effective outcomes and that often these also lead to efficiencies’.

The Public Sector Equalities Duties should be a key example of how a strong duty is approached and implemented. Welsh Government has raised some concerns about this method suggesting it leads to tick box, burdensome approach which does not lead to culture change. This position is not evidence based and conflicts to the messages that Minister for Finance and Leader of the House Jane Hutt has been given on WG’s commitment to the Equalities Duty in Wales³. The third sector fought hard to achieve duties which we believe are the most suitable institutional framework to deliver outcomes. They facilitate a process which is transparent, accountable, enforceable and specifically requires engagement with the citizens it is aimed at improving outcomes for.

The benefit of having a strong and prescriptive duty can be demonstrated through the 2013/14 Budget. The Equality Duty requires an Equality Impact Assessment of key policies and budgets which has enabled demonstrable consideration of equality throughout the 2013/14 Budget with changed decisions as a result of this assessment. If you compare this to the impact of the current Welsh Government sustainable development duty on the budget - there are no obvious and demonstrable impacts of this duty of the budget allocation. It certainly does not appear as if sustainable development is the central organising principle of budget allocation. This example provides evidence and sets a precedent of where a strong duty has significant positive impact. We believe that this is the route that the sustainable development duty needs to take to have impact as a central organising principle.

3.3 Nature of duty

The White paper says that in developing the proposed approach to the nature of the duty, the Welsh Government has drawn from the key principles within the Rio +20 outcomes document; international examples of good practice; EU Sustainable Development Strategy, the draft guiding principles outlined by the European Council; the UK Shared Principles; and those underpinning the Welsh Government’s Sustainable Development Scheme”. We suggest that this does not appear to be the case based on our assessment of these documents and strategies against the proposals in the White Paper.

The proposed principles of sustainable development in the White Paper appear to be

- Integration and working across boundaries
- Long term thinking and a focus on prevention
- Engagement and involvement

These principles are not wholly consistent with the UK Sustainable Development Principles which also include living *within environmental limits* and *using sound science responsibly*. Two of the proposed Welsh Government principles (engagement and working across

² <http://wales.gov.uk/docs/desh/publications/120131susdevreviewfullen.pdf>

³ <http://wales.gov.uk/newsroom/equalityanddiversity/2013/6909387/?lang=en>

boundaries) are generic good governance which, whilst important to enable sustainable development, are not sustainable development principles in themselves. They need to be part of the package of principles if they are to deliver on sustainable development.

They are also not fully consistent with the One Wales; One Planet principles which are much more in line with internationally recognised principles. The value of natural resources, biologically diverse and productive ecosystems and environmental limits need to be integrated into public sector decision making process for sustainability to be achieved. There is very little reference to this in the consultation - only reference to environment wellbeing with no details on what this means. The lack of essential strong sustainability aspects in the White Paper proposals that were recognised in One Wales; One Planet raises questions about a shift in Welsh Government's vision of sustainable development to weak sustainable development. This is reflected in the Welsh Government's use of wellbeing in place of sustainable development (see comments under definition).

This approach of weak sustainability will not deliver what is necessary to tackle the long term future for Wales including resource depletion and climate change impacts and an economy which is increasingly driven by these influences. Economic security will become increasingly dependent on the shift to greener economies: in an era of high commodity prices, resource and energy efficiency will be the key to competitive advantage; sustainable low carbon industries have performed well during the recession and are ripe for investment and growth; and there's a need to mitigate environmental risks to the economy, not least those associated with climate change impacts.

We welcome the Welsh Government's commitment to improve the governance for sustainable development in Wales, aligning with *The Future We Want* articulated need to strengthen the institutional framework for, and integrate the three dimensions of sustainable development, in decision making. However 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 significantly strengthen and hence achieve sustainable development outcomes.
- offers good governance and not other key principles identified in *The Future We Want* necessary to achieving sustainable development.

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'⁴.

The aspects of good governance also need to sit alongside the sustainability principles which the good governance is set up to achieve. These are internationally recognised as including:

- (a) living within environmental limits;
- (b) using natural resources prudently;
- (b) ensuring a strong, healthy and just society;
- (c) achieving a sustainable economy;
- (d) applying the preventative, precautionary and polluter pays principles;
- (e) using sound science responsibly;

⁴ UN 2012, *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

(f) promoting good governance;

The current application of the duty to only high level principles means it may not achieve the recommendations from *The Future We Want* for strengthening the institutional framework. It requires sustainable development activity should:

*Be based on an action- and result-oriented approach giving due regard to all relevant cross-cutting issues with the aim to contribute to the implementation of sustainable development;*⁵

The Welsh Government's approach may not lead to an actions and results orientated approach as it's currently based within high level decisions and outcomes rather than identified objectives, activities and outputs.

Another key principle for the institutional framework is:

*the framework should be inclusive, **transparent and effective**.*⁶

As highlighted in the previous 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 questions the transparency and effectiveness of the Welsh Government's proposed institutional framework which are key aspects of the Rio + 20 proposed framework for best practice in sustainable development.

There is no clarity on what a high level decision is in the consultation. If this is left to interpretation by public authorities this may lead to confusion, lack of transparency and issues with enforcement. We believe this may lead to business as usual, with some justifications added on, based on the decision makers own interpretation of what sustainable development means and what they should be setting out to achieve. This will not create the change to how we currently do practice - primarily unsustainable, which is essential to achieving sustainable development.

3.4 International development

We recognise and commend the Welsh Government's 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.**

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*⁷.

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

⁶ UN 2012, *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

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

3.5 Climate change

Climate change is recognised as a threat to sustainable development 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 sustainable development bill. In the climate change committee report⁸, the panel recommended that the Welsh Government use legislative programmes to set carbon reduction targets in law:

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.

3.6 Integration and working across boundaries

Integration of economic, social and environmental dimensions is a key aspect of sustainable development - it is also a key challenge. It is likely that these three pillars will also appear to be competing priorities at times. The consultation makes no distinction between the degree to which a balance needs to be found between possible competing aspects of sustainable development or if any may be favoured depending on circumstances.

Transparency and engagement of key stakeholders in the decision making is vital to enable these challenges to be collectively explored and understood.

3.7 Engagement

For engagement to be meaningful it needs to be enabled throughout the full functions of a public authority, not just in the development of high level strategies and setting of outcomes but also in the delivery and in the scrutiny of this process. The current proposals for using the existing public sector mechanisms for engagement may not fit the need and level of engagement that sustainable development requires.

It is therefore essential that any legislation on sustainable development has the fundamental starting point of citizen voice and engagement and is not 'top down' and for the public sector only, otherwise it is not only out of line with other Welsh Government approaches but will also fail in not being publically 'owned'.

The Social Services Social Services and Well-being (Wales) Bill as introduced states the following:

the promotion by local authorities of social enterprises, co-operatives, user led services and the third sector in the provision in their areas of care and support and support for carers (section 7);

⁷ UN 2012, *The Future We Want*, <http://sustainabledevelopment.un.org/futurewewant.html>

⁸ Climate Change Committee Report, 2013, UK

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

The third sector is named in the primary legislation as needing to be promoted as service providers. The local authority must also promote the development of what will essentially enable co production and preventative services. Coproduction is increasingly seen by the third sector as a new vision for service delivery in Wales. It incorporates key aspects of sustainable development, including engagement, early prevention and efficiencies. It should therefore be something which the Bill enables.

If the sustainable development bill wants effective engagement and prevention then the third sector needs to be a key partner and identified as such within the Bill.

WCVA suggest that the legislation includes a duty similar to that provided in the Social Services Social Services and Well-being (Wales) Bill as the current sustainable development bill offer proposals weaker which would not make the Bill effective in terms of sustainable development being the overarching legislative framework.

We welcome the endorsement of the National Principles for Public Engagement⁹ as an overarching set of principles. However these principles need to be applied at the correct levels of service design and delivery and hence a need for an institutional framework and duty on engagement is required to enable this.

The Future We Want identifies engagement as also about access to information and judicial and administrative proceedings which are essential to the promotion of sustainable development. This needs to be part of the support and role of the Commissioner.

3.8 Local Service Boards

The proposals in the White Paper to put integrated planning on a single statutory footing (pp.10-11) have led to a discussion paper for members of Local Service Boards (LSBs) which includes considering proposals to make LSBs statutory, with a defined membership.

The proposals raise important issues about the breadth of representation on LSBs, as they explicitly do not include two current members of LSBs: Welsh Government and the third sector, currently represented by County Voluntary Councils (CVCs).

Although it would be beyond the ability of this legislation to impose statutory duties on independent voluntary organisations, the current proposals suggest the possibility of a looser relationship.

We would strongly advocate for the integral role of CVCs in LSBs, to represent third sector views, and we therefore propose that this legal technicality is overcome through placing a duty on the LSB to invite the CVC (or any successor equivalent body) to be a member of the LSB.

There is a precedent for this approach in the 2003 Welsh Government statutory guidance on preparing Health Social Care and Wellbeing Strategies, which includes the following:

The Duty of Co-operation (Regulation 3)

2.5In formulating and reviewing local Strategies local authorities and local health boards are under a duty to co-operate with:

⁹ <http://www.participationcymru.org.uk/principles>

- a. NHS Trusts providing services to the local population;
- b. Community Health Councils (CHCs) representing the local population;
- c. County Voluntary Councils (CVCs);
- d. Health Commission Wales (Specialist Services).
- e. any private, business, voluntary or other organisation with an interest in the provision of health and well-being services; and

2.5 If there is not a CVC in the local area the local authority and local health board should co-operate with a body or group which performs similar functions to a CVC.

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

We support the principle of having a Commissioner for Sustainable Development who should become a powerful champion for future generations, people in developing countries and those living in poverty in Wales - who are all impacted by unsustainable development. The level of independence of the Commissioner is unclear in the White paper which suggests it may be insufficient to ensure public sector is supported and held to account effectively. We call for a Commissioner that is independent of the Welsh Government and thus 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 the public sector both to comply with the provisions of the Bill, and more widely. This provision does not appear in the White paper. We believe such powers and duties should be included in this legislation even if the commissioner is unlikely to use these powers for several years, whilst s/he supports the public sector in its change process.

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. The White paper does not provide any information on the scale of the resourcing which raises concerns they may not be sufficient and may be overly- reliant on a voluntary, advisory panel.

We recognise that the establishment of a new commissioner with a supporting body may raise political and financial concerns in a time of financial constraints. It is therefore vital that the Welsh Government works collective with key stakeholders to identify a structure and role for the commissioner which would meet the needs identified.

We welcome the role the Sustainable Development Body will have to promote the National Principles of Public Engagement. However, this is not strong enough to provide the public with a route and right to redress through judicial and administrative proceedings. The process of judicial and administrative proceedings has been highlighted in the Rio + 20 outcomes as essential to the promotion of Sustainable Development.

*“We would like to highlight that broad **public participation and access to information and judicial and administrative proceedings** are essential to the promotion of sustainable development. To be effective, sustainable development requires the meaningful involvement and active participation of regional, national and sub-national legislatures and judiciaries”.*

We would expect to see a clear role for the Commissioner to support communities or individuals who have concerns about the delivery of sustainable development duty by a

public authority. The Body/ commissioner should be given powers to investigate and take action on failures to comply. This will not mean that public authority will be inundated with judicial reviews. Rather a judicial review is less likely to succeed as alternative mechanisms are available.

We would also expect the Commissioner to be promoting coproduction and collaboration as it incorporates aspects of prevention, engagement and long termism.

Suggestions of how this could be achieved through a bill are:

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

- (2) The Sustainable Development Commissioner for Wales may—
 - (a) provide and publish advice on matters relating to the implementation and enforcement of the Sustainable Development Duty;
 - (b) conduct research and inquiries into matters which the Commissioner considers relevant to sustainable development or the Sustainable Development Duty;
 - (c) make recommendations to public bodies, including Ministers and the National Assembly for Wales in respect of the discharge of their duties under this Act;
- (3) persons may make complaints to the Commissioner in relation to any matter concerning discharge of the Sustainable Development Duty by public authorities.
- (4) The Minister may make regulations concerning complaints which may be made to the Commissioner.
- (5) 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.

5. 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 body.

WLGA's response to the initial consultation, talks 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 and wider operational aspects of public sector functions in the implementation of the duty. This would enable Value Wales and other enabling bodies to support the public sector through capacity building (Enable, Exemplify and Engage) ready for the implementation of the regulation.

Rio + 20 calls for action and therefore if this Bill wants to propose a staged approach to implementation, it needs to include a clear roadmap for moving from this initial governance-focused duty to a full blown strategy. This strategy would identify activities for implementation which should be methodically set out and explains how progress will be measured (and in turn how decision makers will be held to account).

6. Question 4: What are your views to improve the accountability framework for sustainable development?

The Rio+20 outcome document 'The Future We Want' states:

“the [SD] framework should be inclusive, transparent and effective and that it should find common solutions related to global challenges to sustainable development”

Respondents to the first Welsh Government consultation stated that a duty on high level decision making would not be transparent or easy to monitor and there would be difficulty with the measurement and auditing of performance and the subsequent enforcement. It could also be too easy for organisations to show compliance without substantially changing the way in which 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 could undermine the transparency and effectiveness of the Welsh Government's proposed institutional framework. Transparency and ease of monitoring are key aspects of the Rio+20 proposed framework for best practice in sustainable development.

Any governance process should also reflect and enhance the provisions within the Aarhus Convention on access to information, public participation and access to justice in environmental decision-making.

There are a plethora of existing structures, mechanisms, planning processes and requirements for reporting and monitoring. A key question which needs to be addressed is the degree to which existing frameworks are fit for purpose. The importance of reporting in a coherent way, using robust measures, focussed on what matters is a key issue. We believe the proposals for accountability in Chapter 5 are not adequate to ensure the delivery of sustainable development as there is likely to be additional aspects required as the current framework is not fit for purpose. We would suggest that based on the discussions above, those existing frameworks would need to be significantly amended to incorporate key principles of sustainable development and incorporate meaningful and collectively agreed sustainable development indicators.

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 framework must also be suitable to measure the effectiveness of delivery in making progress towards and achieving a sustainable Wales.

There must be an assessment of the outcomes of sustainable development processes in order for the Commissioner to be able to ensure that the Bill is being complied with. 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 shortcomings. Public bodies should be required to provide information as directed by the Commissioner.

6.1 Indicators

Office for National Statistics (ONS) efforts to measure national wellbeing have 40 indicators of UK national wellbeing, of which only five relate to the environment. This downplays the contribution of the natural environment to our wellbeing now, as well as the importance of maintaining the ecological conditions and natural resources for the wellbeing of future generations.

When the ONS embarked on its mission to "measure what matters", it carried out a national debate to find out what people consider important to their wellbeing. These results reflect the fact that our wellbeing is dependent on a healthy natural environment in many ways. Research by the Department for Environment, Food and Rural Affairs (Defra)¹⁰ provides a wealth of evidence on how access to green spaces contributes to physical and mental health, and social cohesion. More fundamentally though, the natural world provides the material foundations of our wellbeing - a stable climate, food, fibre, energy, clean air and water, and other natural resources.

We are not suggesting that sustainable development indicators are based on wellbeing indicators, but this does highlight how important the environment is to all aspects of our 'development', including our social development. We would therefore suggest that the review of the Welsh sustainable development indicators strongly recognised and gives appropriate weighting to environment measures.

The impact of sustainable development duty on the community and the public which the duty is hoping to improve outcomes also needs to be considered. Sustainable outcomes for communities could include :

- More informed - enable engagement
- Must be based on "community needs"
- Engagement with citizen - central
- Engagement with tomorrow's citizens
- Accessibility of language - increase understanding

Annex 1 Alternative formulations of a sustainable development duty

A Sustainable Development Bill for Wales

Preamble/Recital/Long title
<i>Recognising that sustainable development means achieving a way of life capable of being continued indefinitely by all of earth's people while respecting environmental limits and-</i>
<i>Sustaining and promoting the Welsh language, culture and heritage.</i>
1 Duty to achieve sustainable development
(1) Every public authority must exercise their functions in order to achieve sustainable development. (2) The Welsh Ministers shall publish guidance on how to comply with the duty in subsection (1), within 6 months of the commencement of the Act.. (3) A public authority must have regard to any guidance published under subsection (2) when

¹⁰http://www.google.co.uk/url?sa=t&rct=j&q=green+spaces+wellbeing&source=web&cd=9&ved=0CGUQFjAI&url=http%3A%2F%2Farchive.defra.gov.uk%2Fsustainable%2Fgovernment%2Fdocuments%2FWellbeing_and_the_Natural_Environment_Report.doc&ei=i3kWUPXSDuWKOAXusID4CQ&usg=AFQjCNEgemBywJ-hITbiSBafgtCSakQs2g

<p>complying with the duty in subsection (1).</p>
<p>2 Meaning of sustainable development</p> <p>(1) 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:</p> <ul style="list-style-type: none"> (a) living within environmental limits; (b) ensuring a strong, healthy and just society; (c) achieving a sustainable economy; (d) applying the , precautionary principle; (e) using sound science responsibly; (f) promoting good governance; (g) minimising adverse international impacts; (h) ensuring that the people of Wales use only their fair share of the world’s resources; (h) sustaining and promoting Welsh language and heritage.
<p>3 Sustainable Development Commissioner for Wales</p> <p>(1) The National Assembly for Wales shall appoint a Sustainable Development Commissioner for Wales.</p> <p>(2) The Sustainable Development Commissioner for Wales may—</p> <ul style="list-style-type: none"> (a) provide and publish advice on matters relating to the implementation and enforcement of the Sustainable Development Duty; (b) conduct research and inquiries into matters which the Commissioner considers relevant to sustainable development or the Sustainable Development Duty; (c) make recommendations to public bodies, including Ministers and the National Assembly for Wales in respect of the discharge of their duties under this Act; <p>(3) Individuals or civil society bodies may make complaints to the Commissioner in relation to any matter concerning discharge of the Sustainable Development Duty by public authorities.</p> <p>(4) The Minister shall make regulations concerning complaints which may be made to the Commissioner.</p> <p>(5) The regulations may contain provision concerning (but not limited to)—</p> <ul style="list-style-type: none"> (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; (d) the process for appeals and (e) the sanctions which the Commissioner may impose following determination.
<p>4 Resource use – monitoring and review</p> <p>(1) The Commissioner must publish no later than 31 January each year a report setting out the use of resources in Wales during the relevant period.</p> <p>(2) The reference to the use of resources in subsection (1) includes the use of resources in connection with goods and services imported into Wales during the relevant period.</p> <p>(3) Each report must address use of the following resources —</p> <ul style="list-style-type: none"> (a) land; (b) materials; (c) water; and (d) climate. <p>(4) The use of land shall be measured by reference to the total number of hectares.</p> <p>(5) The use of materials shall be measured in tonnage, including sub-totals of the tonnage of biological and mineral materials used.</p>

(6) The use of water shall be measured in litres.

(7) The use of the climate shall be measured in tonnes of CO2 equivalent.

5. Interpretation

“public authority” means an authority that has functions of a public nature;

“public function” means a function, which is a function of a public nature for the purposes of the Human Rights Act 1998;

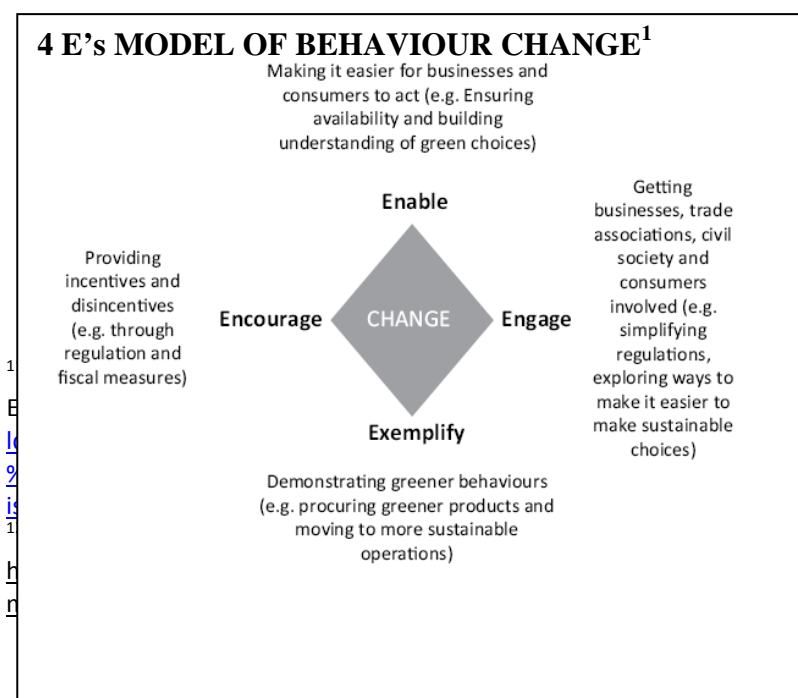
“relevant period” means the year ending on 31 December immediately preceding the date on which the report under section 4 is required to be published;

“sustainable development” has the meaning given in section 2;

“Sustainable Development Duty” means the duty set out in section 1(1).

Annex 2 Detailed case for inclusion of procurement in Bill

In the 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. Research undertaken at Cardiff University by Professor Morgan, which has been discussed and reported on by the National Assembly of Wales¹¹; 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*¹² made a number of practical recommendations to

by 2012), ‘Influencing the Modernisation of [business-fourth-assembly-laid-docs/cr-ee%20on%20influencing%20the%20modern](#) *Procurement Opportunity Research*’, [mentopportunity/090520barrierstoprocare](#)

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*¹³, 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.

The evidence of both 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. 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.

¹³ 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/valuwales/120917mcclellandreviewfullfinal.pdf>

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.¹⁴

The case has been made by Jane Hutt that if there remains a need for procurement legislation, it can be developed at a later date. It does not seem to be efficient not use this opportunity to legislate for procurement in the current Bill. To decide at a later point it is needed and therefore develop a legislative programme specifically for procurement would seem ineffective use of public money.

Jessica McQuade

WCVA

March 2013

¹⁴ **Welsh Government**, (June 2012), Summary of Consultation Responses,
<http://wales.gov.uk/docs/desh/consultation/121008sustdevbillconsultresponseen.pdf>



RESPONSE TO WELSH
GOVERNMENT CONSULTATION
ON THE SUSTAINABLE
DEVELOPMENT BILL WHITE
PAPER

February 2013



WLGA • CLILC

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh local government and the communities they serve.
3. The WLGA welcomes this opportunity to comment on this Welsh Government (WG) WG consultation on its proposals within the Sustainable Development Bill White Paper.

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?

1. The WLGA acknowledges the potential for sustainable development to define a development path for Wales that addresses social, economic and environmental considerations simultaneously. With Welsh government financial assistance the WLGA has developed the SD Framework over the last six years, providing information and customised support for local authorities. We therefore welcome the Welsh Government's focus on SD and the confirmation (section 1.2) that it will seek to ensure that all Government policies and programmes reflect its commitment.
2. Whilst we support the key principles we also recognise that the current economic climate, short term budget planning cycles and the political cycles at local and national level present challenges to changing the behaviour of public bodies towards sustainable development. The proposed Bill provides an opportunity to develop innovative approaches to address these challenges. However, there is simultaneous work being undertaken by Welsh Government on a Public Health Bill and the Social Services and Well Being (Wales) Bill. Both of these cover similar territory in terms of their focus on well-being. Whilst agreeing with the need for SD to be at the heart of *all* legislation (section 2.17) WLGA would encourage Welsh

Government to consider whether there is scope to bring elements of these key pieces of legislation together to ensure there is consistency of approach at the 'core'. In addition WLGA identifies the need for Welsh Government to bring together SD with proposed legislation within the Environment Bill and the Planning Bill. In addition to this developing legislation it is important not to overlook the existing legislative requirements in relation to SD that emanate from the EU, UK Government and Welsh Government and that the adherence to these multi-level requirements is as important as introduction of new legislation.

3. The WLGA agrees with the proposal that a combination of objectives and behaviours should be implemented through the Bill (section 2.8)
4. We agree that a more integrated approach will be driven by the duty (not only integration with other public bodies and the private sector but also within the public bodies themselves) taking into account the social, economic and environmental wellbeing of Wales. However, it is significant that not all partners (e.g. some public bodies and the private and voluntary sectors) are going to be subject to the sustainable development duty. This may have an impact on the ability to achieve fully integrated approaches.
5. WLGA welcomes the principle that in meeting the aim to fully embed sustainable development, placing additional bureaucratic burden upon the public bodies should be avoided. Wherever possible, existing requirements and mainstream planning, systems and procedures (such as Single Integrated Plans, Local Development Plans, Outcome Agreements, Performance Indicators, organisational development and staff training) should be used to drive and incentivise the process of embedding sustainable development.
6. WLGA also welcomes the fact that Welsh Government has highlighted (in section 2.21) the importance of flexibility to allow public bodies to determine their own priorities in terms of outcomes (within broad parameters the government will necessarily set). We also agree that it is critical that the Bill has practical effect and does not become a 'tick box' exercise (section 2.23). The proposal to focus on processes rather than documents should help in this respect, ensuring that decision makers are required (explicitly and in an auditable way) to go through a number of critical stages before they arrive at a decision.
7. WLGA acknowledges the importance of - and need for - evidence to support the strategic decision making process (section 2.30). If existing reporting regimes are to be used to demonstrate compliance with the new duty, they will need to be able to show how economic, social, environmental dimensions and long term considerations have been taken into account.

8. Work on reporting has been carried out as part of the SD Framework with the City and County of Swansea. This served as a useful first step in terms of helping an authority reassess what it includes in its annual report and to consider a wider range of indicators than purely financial ones. The learning from this work was shared with all local authorities via a seminar in November 2012 and this promotion of good practice should continue to be a feature of the SD Framework.
9. The SD Bill will force public bodies to review the data they currently gather to see if they are fit for purpose. Where it is possible, procedures should be streamlined and build on systems that are already in place to collect useful data. This will help to minimise the bureaucracy involved. In this respect an early indication of what is likely be required by the proposed statutory guidance (referred to in section 2.29) would assist. It will be crucially important that the guidance helps to bring the Bill's aims – and its definition of SD - to life, with practical examples included.
10. The elected members hold a key role within the decision making process in local authorities and in determining corporately the outcomes that are sought. It will therefore be important that there is ongoing support available for local politicians via the WLGA's SD Framework so they understand why new dimensions and emphases in relation to decision making are being introduced.

Q2: What are your views on the proposals for an independent sustainable development body?

1. The WLGA agrees with the role and function of the sustainable development body and concurs with the need for it to have high level cross sector representation; be independent and strong enough to be critical of Government when needed; have responsibility for recommending and monitoring key indicators of progress; be focussed on problem solving; bring an interdisciplinary approach and enable joint action from across sectors; ensure strong civil engagement to underpin its role; and be established for the long term with stable resources.
2. In addition the body needs to provide support, through expert advice and guidance, recognising that there is a need to develop a knowledge base, and a consistency, as to how public organisations can embed sustainable development as the central organising principle. The WLGA consider that key to this will be need for the sustainable development body to establish strong working relationships with all the current Commissioners.
3. The WLGA has concerns that as the sustainable development body's remit is across the whole public sector in Wales there will be a capacity issue for the new body if aims to support all organisations subject to the duty. To seek to maintain expertise

- relevant to all aspects of SD within a single body would be unrealistic, especially in the current financial climate in the public sector.
4. What level of support would the new body be able to offer? – it may be limited if the range is too wide, given resource constraints. Consideration will therefore need to be given as to whether the body should keep its remit focused and specialised instead. One option (hinted at in section 3.10) would be to develop links with existing bodies already involved in facilitating joint working and collaboration on SD (e.g. WLGA, Cynnal Cymru) would be helpful (section 3.4)
 5. WLGA supports the proposal that the sustainable development body should be independent. It would be helpful if the SD Body's reporting contains examples of difficult cases where it has offered advice and explains how it has helped to resolve differences of opinion. Over time this would build up a series of 'precedents' that would be useful to other bodies.
 6. The WLGA would welcome the opportunity to be involved in developing the new body's capacity and contributing to the establishment of monitoring and support functions of the body

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??

1. The WLGA acknowledges that there should be a phased approach to the implementation of the duty.
2. The WLGA agrees that Welsh Government needs to be included within Phase 1 to illustrate its commitment to sustainability as a central organising principle, leading by example.
3. The principles of sustainable development have been recognised and embraced by local authorities and several of the case studies which have been used to illustrate sustainable development have been provided by local authorities.
4. In addition the establishment of the Sustainable Development Coordinators Cymru group has contributed to the growing momentum of sustainability within local government. In order to maintain and further develop this momentum WLGA believes Welsh Government should look favourably on local authorities who express a desire to be included in Phase 1, perhaps to be monitored with a 'light touch' so as not to significantly increase the monitoring burden on the WAO.
5. These local authorities could operate as 'pilot studies' that could support the remaining local authorities and other organisations in their preparations for implementation in Phase 2 in 2016. This would be an opportunity to ensure that

the appropriate monitoring arrangements for local authorities are developed. Both the SDCC and the WLGA's SD Framework could be utilised to facilitate the transfer of good practice and support in the lead up to 2016 (section 4.4)

6. In addition, it should be noted that local government across Europe has also embraced the principles of SD, Welsh Local authorities are well placed to take advantage of opportunities to cooperate with counterparts across the rest of Europe.

Q4: What are your views on the proposals to improve the accountability framework for sustainable development in Wales?

1. The WLGA welcome the proposals to embed scrutiny and accountability within existing frameworks (section 5.3). Integrating SD auditing into the auditing process is welcome, illustrating that SD is part of the 'day job' and not an 'add on'.
2. However there are questions over the current audit regime and the amount of capacity and expertise across the WAO to undertake a role in relation to sustainability. Likewise, within local authorities the capacity and expertise for scrutiny of sustainability issues will need to be developed. These matters will need to be addressed as part of the forward planning to implement the legislation.
3. The issue of accountability is certainly a crucial one. In the case of health and safety legislation it is clear that responsibility lies with the Head of Paid Service in the event of an infringement. Similar clarity is needed as to what sanctions/actions might follow in the event of non-compliance with SD legislation (and how such non-compliance would be determined and by whom). Without this clarity over 'where the buck stops', arguably, it will be more difficult for SD to rise to the top of the agenda so that it becomes the central organising principle.
4. 'Consideration of SD' could become a 'tick box' exercise i.e. information was presented and considered but no change in behaviour.

Q5: 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?

1. The WLGA would welcome clarification as to what constitutes compliance and whether sanctions will be instigated for non-compliance.
2. WLGA wishes to express concern that the WG may seek to use SD duty non-compliance as a means for restricting funding where although the decision-making process was compliant with the duty the outcome is 'judged' to be non-compliant (Section 2.27) states that: "... it is not the intention to apply the duty to the decisions taken , but to ensure that sustainable development has informed the strategic decision making processes leading to them..", and in (Section 2.24) "...it is a core part of the approach that organisations are able to find the solutions that are best suited to their circumstances..."
3. The WLGA recommends that the duty be developmental and not punitive from Day 1 as people learn and that WG's own policy framework needs to facilitate SD behaviour and that it is not the job of WG to micromanage services at a local level
4. WLGA notes that the WG is considering putting LSBs and Single Improvement Plans on a statutory footing and recognise, in principle the potential this offers in relation to promoting SD. However, feedback on this is being gathered from local authorities and WLGA will comment on this part of the separate WG consultation, which is due for completion by the end of March 2013.

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Welsh Government
Sustainable Development Bill – White Paper

Consultation response

04 March 2013

CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. Our 14,000 members work throughout the public services, in national audit agencies, in major accountancy firms, and in other bodies where public money needs to be effectively and efficiently managed.

As the world's only professional accountancy body to specialise in public services, CIPFA's portfolio of qualifications are the foundation for a career in public finance. They include the benchmark professional qualification for public sector accountants as well as a postgraduate diploma for people already working in leadership positions. They are taught by our in-house CIPFA Education and Training Centre as well as other places of learning around the world. We also champion high performance in public services, translating our experience and insight into clear advice and practical services. They include information and guidance, courses and conferences, property and asset management solutions, consultancy and interim people for a range of public sector clients.

Globally, CIPFA shows the way in public finance by standing up for sound public financial management and good governance. We work with donors, partner governments, accountancy bodies and the public sector around the world to advance public finance and support better public services.

For more information on this response contact John Maddocks, Technical Manager
john.maddocks@cipfa.org.uk

General Comment

CIPFA welcomes the opportunity to respond to the Welsh Government White Paper: *A sustainable Wales: Better choices* and the proposals for a Sustainable Development Bill. This response focuses on the questions included in the white paper.

CIPFA supports initiatives aimed at strengthening sustainable development (SD) and promoting economic, social and environmental well-being. We also support the desire to develop an integrated approach taking a long term view to sustainability and SD.

Responses to questions

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?

CIPFA welcomes the proposed new duty to embed SD as a central organising principle for selected organisations in Wales. Strategy and sustainability are necessarily interconnected and the new duty will assist in making those connections clearer as well as supporting the embedding of SD in strategic planning and decision making. The central organising principle is critical to ensuring national sustainability goals are met.

We support the emphasis placed on adopting an outcomes focused approach although we do not underestimate the challenges that can present. This is both in terms of identifying and accurately measuring outcomes as well as understanding and recognizing the complexities in accurately identifying those significant factors that result in a particular outcome. Oversimplification of this process risks a reduction in its usefulness for decision making. It is vital that, as part of developing an outcomes approach, intended outcomes are clearly stated along with the methods for measuring progress towards those outcomes.

We welcome recognition in the White Paper of the need to fully embed SD within governance and high level decision making. In order to support SD, governance must provide increased transparency of decision making and greater stakeholder engagement. Social, economic and environmental considerations must be identified and integrated and the balancing of these with the need for an organisation to deliver value for money and efficiency should be clearly and openly recognised and addressed through the governance system.

We also welcome the statement that ‘... the intention is not to prescribe the detailed processes that should be in place, or what changes need to be made to existing processes’ (2.27) We believe this approach to be the right way forward given the diversity of public service organisations and, in some cases, the complex variety of services they deliver. Organisations need flexibility to develop and refine their processes in a way that makes sense in their particular context and which avoids becoming a tick box exercise.

In relation to reporting guidance we would recommend that the Welsh Government builds on the success of existing models that place an emphasis on clear but concise forms of reporting. The A4S connected reporting framework is an example of this, which avoids overburdening organisations and enables them to focus on developing a small number of key drivers of relevance to the particular organisation at a specific point in time, and able to change as the organisation and the environment it operates in changes. There are a growing number of good examples of public sector reporting to draw on and lessons to be learned from their design and implementation. CIPFA would welcome the opportunity to engage in discussions on developing reporting guidance.

It is absolutely essential that the proposed sustainable development bill is designed to enable and encourage organisations to be creative in their response to the challenges confronting them. At the same time it must avoid unnecessarily increasing bureaucracy and costs for public sector organisations or stifling innovation and genuine engagement.

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

The SD body could have an important role in supporting the development of a culture of collaboration and joined up thinking across specialisms, sub-sectors and silos. The independent status of the body can help with the process of building dialogue and trust and will have the flexibility to encourage informal and formal networking and the linking of people, organisations and ideas.

We support, for example, the suggestion that the body would work with other commissioners to support a more integrated approach and to facilitate the embedding of SD across a range of themes.

Careful consideration, though, needs to be given to how this new SD body will provide value for money to those it intends to work with. There needs to be clarity regarding the scope of the body's work and the added value it will bring to facilitating progress towards SD.

We also note the proposal that the body will develop its own work programme and strategic priorities. It would be helpful to set out the extent to which its work programme will be developed in collaboration with those organisations/stakeholders it is being established to support and guide.

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 proposed phasing and implementation of the duty and the timing of the establishment of the independent SD body.

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

The approach of embedding in existing frameworks where possible will require careful consideration to ensure that the frameworks are able to fulfil this role adequately. Areas to consider include:

- The type of assurance sought on reporting
- Whether another form of SD assessment would be beneficial
- Assessment of options other than audit for driving positive change
- Whether assurance processes would be separate from the assurance provided on financial reporting
- A balanced assessment of the likely additional costs including not just fees but also time and resources of the organisation under scrutiny as well as the identification and measurement of any resulting benefits arising from the exercise
- Lessons to be learned from other policy initiatives

Following on from the last point, from local government, Registered Social Landlords and the NHS, there is experience to draw on from the preparation of Annual Governance

Statements (AGS), bearing in mind that AGS and SD processes are both different to the numbers-based work required for the Statement of Accounts. In addition, the experience of organisations complying with the CRC Energy Efficiency Scheme (CRC) in Wales could be drawn on and provide learning points. It may be that, for example, a sampling approach could provide an effective check and incentive for organisations.

In relation to audit there is also a distinction to be noted between the auditing process and the desired outcomes. There is a risk that a good SD audit process may not necessarily lead to a good SD outcome and that organisations may have an incentive to focus on only those SD outcomes more likely to lead to a favourable SD audit.

One approach to managing this type of risk would be to adopt an SD audit process that looks at how the duty is being carried out by different organisations across a given geographical area, to help assess whether it is making a positive difference. In this scenario, the Welsh Government might look at the scope for local authority scrutiny committees to assess how the SD duty is being carried out in their area. Similarly, local service boards in Wales could be asked to help assess the SD duty's implementation in their locality.

In addition could the process adopted be flexible enough to allow for organisations being at different stages of maturity in their SD work? This could help avoid the negative effect that can arise from for example "star rating" systems of assessing public bodies – a low mark can be discouraging to an organisation working hard towards SD, but still being at an early stage in doing so. There may be pressure from some environmental organisations for example to see the legislation classify bodies as "succeeding" or "failing" on SD.

We would also recommend that the new form of 'integrated reporting' being developed by the IIRC be looked at. There are a number of public sector organisations undertaking pilot integrated reporting projects and a draft integrated reporting framework is under development.

We don't propose a particular approach but provide the above examples to indicate the range of possibilities and the value of considering a variety of options that don't necessarily entail a standard audit approach within an existing framework. We would welcome further consideration by the Welsh Government and its advisory groups of the various options including an assessment of their ability to help drive the desired SD outcomes.

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 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		
Name	Peter Hollingsworth Frics	
Organisation	Llanhennock Property management	
Address	The Firs 8 High Street Caerleon NP18 1AG	
E-mail address	peterhollingsworth@hotmail.com	
Type <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]
<p>Please provide your views below:</p> <p>Will this be another nail in the coffin of free enterprise in Wales. We already have the most expensive environment for residential development in the U K with the result that we have the lowest new home starts as a percentage of the population - mainly due to an obsession with " sustainability ".</p>	

Q2

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

Please provide your views below:

A good idea for those with vested interests but will business be properly represented ? Is this another case of " jobs for the insiders " . Yet again more cost for the tax payer to shoulder - when will Government get back to encouraging industry to bring wealth back to Wales.

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:

As I question the need for such a body is phasing a ploy to soften the impact.

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:

It appears that yet again more " non productive jobs " will be created .

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 consultation on this important matter appears very one sided and to a great extent business has been side tracked. Without a vibrant business sector all Sustainability ideals come to nothing - we will be left with a failing economy shackled by excessive Government imposed regulations.. We have to live in a World economy and can't rely on EEC handouts.

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: SDBill@wales.gsi.gov.uk 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: SDBill@wales.gsi.gov.uk Telephone: (02920 82) 1728 or 6541</p>

CONSULTATION FORM

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CONSULTATION FORM

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
Name	David Blaney	
Organisation	Higher Education Funding Council for Wales	
Address	Linden Court Ilex Close Llanishen Cardiff CF14 5DZ	
E-mail address	chris.cowburn@hefcw.ac.uk	
Type <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]
<p>Please provide your views below:</p> <p>HEFCW welcomes the proposal to place a duty on both the Welsh Government, and key public sector bodies to embed sustainable development (SD) as a central organising principle. We believe that this legislation has the potential to provide a robust structure that will enable public sector organisations to identify their intended SD objectives and to report on the progress in achieving them. We note that the consultation document has been developed in a largely generic format that does not identify, or prioritise the key elements of sustainability. Whilst we understand and appreciate the reasoning behind this, we are concerned that the ability of education at all levels to support the development of SD will not be effectively harnessed by the current proposal. We would propose that the role of education in raising public understanding and undertaking research, should be explicitly recognised. This would be entirely consistent with the significant work that has already been undertaken in developing Education for Sustainable Development and Global Citizenship throughout the education sector.</p>	

Q2

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

Please provide your views below:

We welcome this proposal but believe that the success of any such organisation will require a recognition of the expertise and support that other organisations can offer. HEFCW has worked with the HE sector in Wales for over 5 years in supporting the development of the Education for Sustainable Development agenda. During this period the sector has developed considerable expertise and continues to prepare resources that can support the aspirations of the White Paper. We would strongly support a remit of the proposed body that requires it to carefully consider existing practice and resource in this area. We believe that HEFCW is well placed to continue to support the development of SD in partnership with the proposed SD development body.

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 would support the approach to phased delivery as outlined.

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:

It is important that the accountability framework remains true to the aspiration of the legislation and applies this duty only to high level strategic documents and not seek to expand this to every plan .We are also concerned that the SD audit duty in relation to higher education institutions will be undertaken by externally appointed auditors and it is important that the additional cost arising from this are effectively controlled.This could be addressed in part by requiring the Wales Audit Office to develop a framework and make this available to all auditors, this would have the advantage of reducing cost, and ensuring a consistent approach. A similar approach was adopted by the Department for Education in England in relation to schools.

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:

No further comment.

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: SDBill@wales.gsi.gov.uk 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
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MERTHYR TYDFIL LOCAL SERVICE BOARD AND
MERTHYR TYDFIL COUNTY BOROUGH COUNCIL
RESPONSE TO THE WELSH GOVERNMENT
SUSTAINABLE DEVELOPMENT BILL WHITE PAPER

This document is a consultation response to the Sustainable Development Bill White Paper. A separate response from the Merthyr Tydfil Local Service Board to the discussion paper on the Sustainable Development Duty and Collaborative Working will be provided by the end of March 2013.

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?

Response

General comments:

In practice, it is likely to be difficult to embed sustainable development as the central organising principle. It is important to highlight that sustainable development should be seen as **a key** central organising principle rather than **the** central organising principle.

The Welsh Government will also need to be mindful of the key barriers to embedding sustainable development as the central organising principle for organisations, which could include:

- Lack of buy-in from Officers and Councillors.
- Lack of awareness and understanding of sustainable development.
- Short term political cycle when sustainable development is all about thinking long term.
- Higher political priorities e.g. Education, Social Services.
- Changing the organisational culture.
- Could be seen as a tick box exercise.
- Budget cuts/efficiency agenda reducing numbers of staff leading to increasing over reliance on key officers.

Whilst a new duty is essential for encouraging compliance it would be prudent to consider rationalising or clarifying how this 'broader' sustainable development duty could complement, collate or support other statutory duties. This issue goes some way into the consideration of reporting being through existing mechanisms and must simplify and/or coordinate existing reporting.

Specific comments on the sections of the White Paper are provided below:

The Central Organising Principle

- A clear issue is a need to properly define what the “central organising principle” means.
- The Bill needs to challenge organisational outcomes as well as the decision that has been reached. If not, there is the strong possibility of only slight incremental change year on year.
- Something similar to the Corporate Health Standard, which is a stepped approach, could be useful as a template for organisations to work towards, collaborate and benchmark themselves against. Recognition needs to be given to the fact that many organisations and services within them are at different stages in their sustainable development journey. It would be counterproductive for the guidance to allow organisations to rest on their laurels - it needs to establish additional initiatives, so that good performing organisations are still pushed hard and can help to share their best practice.

The Nature of the Duty

- There is support for the principle of combining the behaviours and objectives approach. However, further detail is required on this. It is assumed that this will be clarified within the guidance that will be issued with the Bill.
- We agree with the key principles that are being proposed. However, it is very difficult to see how these can be taken forward within the context of the current economic climate, short term budgets and existing political cycles.

Defining Sustainable Development

- Whilst we support the principle of having a definition of sustainable development within the Bill it is unclear which one will be used.
- Whichever definition is used clarity and interpretation is needed within the guidance.
- The agreed definition also needs to be clearly filtered through to other legislation and guidance produced by Welsh Government. This will help to ensure integration throughout public service delivery.
- The Bill needs to use a definition which is relevant and meaningful to all disciplines and sectors. Whilst the Bruntland definition is most commonly used, it is rather aspirational. The One Wales: One Planet definition is, in comparison to Bruntland, clearer and more tangible and specifically addresses the three pillars of sustainability. It is therefore easier for experts in disciplines like Social Services to relate to.

Delivering Outcomes

- Whilst the Bill states the need to use existing tools such as Outcome Agreements, Indicators and KPI's to facilitate the process of mainstreaming sustainable development, public sector organisations will only make progress by measuring the right things, not just what they are doing.
- How will the Bill enable outcomes to be assessed in terms of whether they are sustainable? Without this scrutiny, Wales could end up with very vague outcomes which achieve very little, so there is a need for them to be focused.
- Is there going to be a mechanism to assess and scrutinise the outcomes selected by organisations?
- The whole accountability process needs to be **SMART**.
- The Bill needs to show how all the different legislative requirements, strategies, plans etc should and will be integrated?

Scope of the Duty

- Guidance is needed on what constitutes strategic decision making e.g. Council, Cabinet, Planning Committee decisions.
- We agree with the proposal that the duty should apply at the strategic decision making level.
- There should also be a consistent requirement to evidence how sustainable development has influenced the decision making process across the organisation.
- The Bill will offer opportunities for exploring innovative approaches and better outcomes i.e. community benefits, supporting the local economy through procurement etc.
- The Bill could provide opportunities to remove barriers that prevent innovation.
- For Local Authorities, the role of Councillors needs to be considered within the decision making process and when agreeing corporate outcomes. There needs to be ongoing capacity building work to ensure that Councillors are able to balance the long term requirement for sustainable development with local delivery priorities.

Reporting

- We agree with the proposal to use existing reporting mechanisms. However, the Wales Audit Office must have the authority to challenge if they are not robust and consistent. The Regulator will need to recognise that changes will be made over the long term, not short term.
- We support the need for statutory guidance to ensure that the guidance is adhered to. However this needs to be sustainable itself. Will organisations have the capacity to implement?
- Are we collecting and using the right evidence to inform our decisions? Need to ensure quality of evidence.

Collaborative Working

- We welcome the proposal to include Single Integrated Plans and shared outcomes, however there needs to be an awareness that not all current partners would be subject to the duty. Again, any shared outcomes would need to demonstrate that they were sustainable and had taken sustainability principles into account when being agreed.
- In situations of non compliance of the duty how would liability be apportioned across the partners in Local Service Boards?

Question 2 (Chapter 3)

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

Response

General comments:

Is a separate body absolutely necessary in the current financial climate? The new body will have to be seen as adding value to the sustainable development agenda and supporting organisations across Wales, especially during the current economic climate.

There is a voluntary sector organisation currently (Sustain Wales/Cynnal Cymru) operating and there must be clarity on the relationship between these organisations in the future in order that there is not an unintended negative effect in the practice/support in the sustainable development field.

How will the body be funded? It would be helpful to have a body that supports organisations to embed sustainable development.

Specific comments on the sections of the White Paper are provided below:

Role and Functions

- We agree with the role and functions proposed. However, it will be a significant task to do this for the whole public sector in Wales. Will there be a capacity issue for the new body to support all of the organisations that would be subject to the duty?
- The size and delivery of the function still seems to be unclear.
- The new body has a very broad remit which could make delivery very difficult without the body itself becoming excessively large.
- The body wouldn't be able to support all of the subject bodies and engage with the whole population of Wales – it would need to focus and prioritise.
- It is not clear what level of support the body would be able to offer? It could be negligible if the range is too wide and the resources too few.
- The challenge role will be important; what powers will the body have beyond the informal challenge function?

Supporting

- We agree with the purpose identified. However there will need to be clear links with existing bodies e.g. Welsh Local Government Association.
- Would the new body be able to provide the necessary support? It may be that the support currently available through the Welsh Local

Government Association's Sustainable Development Framework, for example, could be more appropriate.

- How would auditing (Auditor General Wales) and advice (sustainable development body) link and what recourse would there be if the advice was considered to be inappropriate during audit?
- Is the budget better spent on supporting or on the accountability e.g. checking we're doing it?
- With limited resources, support is best utilised for brokering the collaborative learning and sharing, signposting, rather than supporting individual organisations directly.

Policy Development and Advice

- The body should develop measures for the whole of the public sector in Wales. These measures would then dictate to the Wales Audit Office what should be reported.

Composition

- There should be proportionate and adequate support for each of the sectors e.g. Local Authorities and Health would be the largest organisations to be subject to the duty.

Independence

- The body needs to be statutory.

Reporting Arrangements and Representations

- The relationship between the body and the Auditor General for Wales will be critical in terms of delivering the aspirations within this Bill.
- There needs to be clarity for bodies subject to the duty around:
 - What support there will be.
 - What the level of challenge will be.

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?

Response

Specific comments on the sections of the White Paper are provided below:

Phasing of the Duty

- The timing and phasing will be less of an issue than clarity of remit between existing duties, statutory organisation functions and obligations (not least of which is Natural Resources Wales – created to rationalise some overlaps), developing strategies such as the Natural Environment Framework and the roles and responsibilities of other organisations currently.
- It is essential that the Bill is introduced on an incremental basis. This will also need to take into account the overall planning cycle of organisations.
- The proposed phasing for Local Authorities, Fire and Rescue Authorities, NHS Trusts and Local Health Boards are all to be in a second phase of public bodies to be subject to the new legislation - from April 2016 - will allow time to build capacity, systems, etc.
- It is essential that organisations are supported and guided to put in place the necessary systems, capacity, etc between now and 2016 to ensure that they are in compliance at that date. It should also be noted that it will take time to implement and embed a strong sustainable development culture and new ways of thinking and working.
- However, it is thought that some concern may be expressed that by putting a number of organisations in a second phase, which seems some way off, there is a risk that they will see it as ‘the pressure is off’ for the time being and not look to put in place the necessary systems, capacity, etc in readiness for 2016.

Establishing the new Body

- If the independent sustainable development body successfully supports organisations to embed sustainable development as their central organising principle it is imperative that this organisation is established as soon as possible. It will also help to develop guidance, measures/indicators, capacity and support in collaboration with organisations that will be subject to the duty.

Supporting the Change

- Welsh public sector would benefit from co-producing the guidance and reporting arrangements with Welsh Government, Wales Audit Office, Welsh Local Government Association and others.

Measuring Progress

- There needs to be a focus around the sustainable development Indicators / Measures so that national level indicators can be used and measured locally.

Question 4 (Chapter 5)

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

Response:

Specific comments on the sections of the White Paper are provided below:

The Role of the Auditor General for Wales

- The proposals to embed scrutiny and accountability within existing frameworks is welcomed. Will there be capacity and expertise in sustainability within the Wales Audit Office to carry out this function; and similarly the capacity and expertise for scrutiny of sustainability issues within scrutiny functions of Local Authorities?
- Are the current auditing processes fit for purpose for reporting sustainable development, with recommendations for improvement?
- It is not clear whether scrutiny will be viewed the same as auditing?
- There is a lack of consistency across organisations, with regard to audit.
- How often, and with what rigour, will the Wales Audit Office undertake audits of organisations?
- What does non compliance look like and what will happen?
- Where will responsibility lie? Equalities/Welsh Language have a senior responsible person – will it be the same for the sustainable development duty? If not, how can sustainable development be the central organising principle?
- It would be useful for Welsh Government to outline what the legislative requirements are, who is responsible and what the sanctions are.
- Will there be consistency of approach for audits?
- Is scrutiny just about the decision making processes or the outcomes selected by organisations? Or both?
- No information is given about internal scrutiny processes to ensure that decision making is challenged internally. There could be capacity issues for Councillors in undertaking effective scrutiny.

Other accountability arrangements

- There should be consistency of approach across all of the public sector and organisations subject to the duty.

Question 5 (Chapter 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?

General comments:

- We would appreciate the opportunity to contribute to developing the future guidance that will shape the Welsh public sector, partners and the wider community.
- There are specific issues around the fact that there will be many instances where issues of economy and social and health and environment conflict. The resolution of how to balance these will be critical to the success or failure of delivery of sustainable development duties, strategies and policies. For example it is quite easy to see how any other strategy might be impacted negatively by focussing on the success of the others; as suggested in the consultation (*4.8 Progress towards sustainability at the national level is currently measured through the Sustainable Development Indicators. The latest sustainable development figures were published in August 2012 which show that in the last year Wales has increased its economic output, driven up its renewable energy production, recycled and composted more of its waste and improved the way in which it manages water.*) by the omission of any details of the environment (or biodiversity) in stark contrast to the Wales Environment Strategy which clearly defines the critical and non-negotiable role the environment plays:

The Environment Strategy provides the framework for the Assembly Government and its partners to protect and enhance the environment in Wales.

We recognise that our environment:

- *has an intrinsic value,*
- *is our life support system,*
- *is a finite source of raw materials and resources,*
- *is central to our quality of life, sense of place, health and wellbeing, and*
- *underpins our economic development,*
- *recognising and living within environmental limits, locally and globally.*

We also recognise that people experience environmental inequalities which must be addressed.

Merthyr Tydfil County Borough Council, in line with all statutory bodies, also have a current duty ('Biodiversity Duty' - Section 40 of the Natural Environment and Rural Communities Act 2006). However, there appears to be no clear consideration of biodiversity in this

consultation even though there could be a significant impact. It is clearly of utmost importance that this process pays due regard to existing legislation and duties as may be relevant, at the appropriate juncture, (possibly such as EU Habitats Directive) as it seeks to encourage and relies others to do the same in the near future.

- Benchmarking - what is the level of understanding of sustainable development in Welsh public bodies?
- Sustainable procurement is essential.
- Training - train to what if sustainable development is not defined.