

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.

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CONSULTATION FORM

Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
Name	Dr Ruth Williams	
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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> <ol style="list-style-type: none"> 1. A clear definition of Sustainable Development (SD) is sorely lacking. What is meant by SD should not be in question post-legislation; it should be stated within the legislation via a definition. 2. The previous definition of a ‘sustainable Wales’ should be reinstated.. 3. We agree the SD duty needs strengthening and with the commitment to legislate to embed SD as “the central organising principle in all [its] actions across government and all public bodies”. 5. One simple, yet effective way to make SD tangible would be to put a duty on all public bodies simply to report on their progress on the SD Indicators. 6. Include budgets in the scope of the duty – this would drive real progress on SD. 7. A key weakness in the White Paper is the weak phrase: ‘to consider’ in terms of economic, social and environmental wellbeing in decision making. 8. A more strongly worded SD duty should be included in the SD Bill, which requires Welsh Government and public bodies to exercise their powers and functions TO ACHIEVE sustainable development in Wales. 9. The proposed duty should instruct the Welsh Government to lay out a route map at the start of every new Government, detailing how SD will be promoted and how key outcomes will be delivered. 10. Keep ‘living within environmental limits’ at the core of SD, do not water it down to ‘environmental wellbeing’ as per the White Paper, and equip decision makers with the tools to work within environmental limits. 	

Q2

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

Please provide your views below:

1. We welcome the creation of the SD body, but it needs TEETH - this is lacking in the White Paper.
2. The SD body should have the role and capacity to advise, monitor and challenge.
3. It should appoint and remunerate appropriately qualified experts, not exclude the perspectives of those without the means to serve on a voluntary basis.
4. Ensure the SD Body's independence from Government, with the power to challenge Welsh Government.
5. Clarification needed of the powers and reporting arrangements of the SD body, SD Commissioner and Wales Auditor General.

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:

1. We agree with a phased approach.
2. The duty should apply to all public bodies at the same time, so that they can start working towards SD before their specified deadlines.
3. 2015 is too late for the SD body to be up and running. It needs to be established in mid 2014 to support and guide the public bodies to deliver the SD duty.

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:

1. The proposals are inadequate and fall short of what is required to help deliver a sustainable Wales with any pace.
2. Merely auditing processes is inadequate.
3. There must be an assessment of the outcomes of SD processes.
4. Assessment of SD outcomes by public bodies should be included in the role and powers 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:

1. Don't miss this opportunity to create world leading SD legislation.
2. Proposed SD Duty must be strengthened.
3. SD must be clearly defined in legislation to provide continuity.
4. Reiterate the SD principle of 'operating within environmental limits' not the woolly aim of 'environmental wellbeing'.
5. The SD body and Commissioner need to be well resourced and free from politics.

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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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.

**Welsh Government White Paper:
'A Sustainable Wales, Better Choices for a Better Future' -
proposals for a Sustainable Development Bill (WG17030)**

- Cardiff Council consultation response

Contact for further details / queries:

Liz Lambert, Sustainable Development Group Leader

Sustainable Development Unit, Cardiff Council

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

The central organising principle:

- We are supportive of the approach for sustainable development (SD) to be the central organising principle as outlined in 2.4. However clear guidance and direction is required by Welsh Government to achieve this change in local authorities and the wider public sector.

The nature of the duty:

- We agree with the combined behaviours and objectives approach, but would like to see more detail on this approach.

Defining sustainable development:

- We support the use of either the Brundtland or the One Wales: One Planet definition of SD and also support the global dimension of SD being included in this definition.
- As proposed there is need for the definition to be further qualified and interpreted in accompanying statutory guidance, allowing for this interpretation to be updated as work on SD matures.
- The agreed definition also needs to feed into all other legislation and guidance produced by Welsh Government to ensure consistency of approach and understanding.

Delivering outcomes:

- We agree that in order for the duty to give organisations flexibility the outcomes and indicators should be selected by the individual organisations. It should be noted that although it is presumed that these outcomes will be sustainable, as it is a SD duty, that this is not explicitly stated.
- There needs to be a mechanism identified to ensure that the outcomes selected by an organisation deliver SD. It is unclear as to whether these outcomes and associated indicators will be subject to external audit and scrutiny in the same way as the strategic decision making processes.
- It is also unclear as to how these outcomes should link to and inform the strategic decision making processes.

Strategic decision making processes:

- We broadly agree with the duty applying to strategic decision making processes only and not the final decisions themselves, in order to avoid additional bureaucracy and excessive legal challenges. However

sustainable processes do not always result in a sustainable decision and with this proposed system there then would be no challenge on this decision. E.g. would an organisations be challenged on a clearly unsustainable decision as long as there had been transparency in the decision making process?

- Additionally is it planned to put in place a mechanism to evaluate the cumulative effects of organisations decisions, to ensure that they are delivering their chosen outcomes and moving in the right direction of travel?
- There is need to define what strategic decision making processes are in scope and what are out of scope and we suggest that this is included in the associated statutory guidance. For the different sectors of public organisations there are likely to be generic corporate processes that could be detailed in this guidance to save organisations time and ensure consistency of approach.
- It is unclear at this stage as to whether financial decision making processes would be in the scope of the duty.

Reporting:

- We support the utilisation of existing reporting mechanisms where these already exist – e.g. for local authorities under the Local Government (Wales) Measure 2009 and the associated Wales Programme for Improvement Guidance where there is already a link to sustainable decision making.
- We also support making the associated guidance statutory. Non-statutory guidance would not drive the SD agenda forward at the pace required and there would be a danger that some organisations would pay no regard to it.

Collaborative working:

- We welcome utilising the SD Bill to put Local Service Boards on a statutory footing, particularly as with current budgetary pressures there is a danger that individual organisations may retrench from the level of collaboration required to achieve meaningful change.
- The Cardiff Partnership Board already utilises SD outcomes and results based accountability methods to deliver SD across the city.
- However there could be an issue around all partners not being subject to the duty as it currently stands. Would this proposed statutory footing make organisations such as the Police and voluntary sector subject to the duty if they sit on a Local Service Board?
- Additionally it is unclear as to how liability would be apportioned between partners in a case of non compliance.

Selection of organisations:

- We agree that the new SD body should not be subject to the duty as they are an advisory body without a strategic decision making role. However if the role of the new body were to change then this exemption may need to be reviewed.
- We agree with the list of organisations proposed to be subject to the duty in table 1 with the exception of Town and Community Councils. Some of these are very small and would not have the capacity to respond to the duty. It is appreciated that some Town and Community Councils in Wales have greater decision making powers than others and it is suggested that there be a size threshold for compliance with the duty. Smaller Town and Community Councils could then be given

a clear obligation that they act in accordance with the principles enshrined by the duty, but not be subject to the duty itself, as per the obligations on the new SD body.

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

- We agree with the new SD body role being supporting and advisory, particularly if the role includes constructive challenge to organisations (where appropriate) as proposed. The size and delivery of the function however is still unclear.
- We support the new SD body being independent for impartiality but would also like it to be statutory to ensure certainty of support.
- It is unclear as to how new SD body will work with other advisory and lobbying organisations, e.g. the WLGA in the context of local government.
- It is also unclear as to how the new SD body will work with the Wales Audit Office and other Regulatory Bodies in terms of 'challenge' and drawing conclusions. What recourse would there be in a situation where the advice given by the SD body was considered to be inappropriate during audit?

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

- We appreciate that legislation takes a long time to establish and that the first organisations cannot be subject to the duty until 2015. However by putting local authorities in the second tranche of organisations to which the duty will be enforced there is a danger of losing momentum of the good work on SD that is currently happening, particularly in the current climate of resource cuts. We would have expected to see local authorities in the first tranche along with Welsh Government.
- Cardiff Council would like to volunteer to be a pilot in the first year of the Bill being in force, and to use the experience as a learning process to inform both the Council's approach to SD and the guidance to be developed for public sector organisations.
- If local authorities are not to be subject to the duty until 2016 then there needs to be a clear message from Welsh Government that this additional time is for organisations to fully prepare for the Bill, and guidance given on how this can be done.
- We agree that the new SD body needs to be established as soon as it legally can be to ensure it offers a supportive role to organisation subject to the duty from the beginning.
- It is suggested that a shadow independent SD body be established whilst the Bill is being passed to enable the new SD body to come into existence as soon as the Act is passed. This shadow body could then be assisting in the development of guidance and support prior to the Bill being in force.

- Cardiff Council would like to contribute to the development of the statutory guidance and to share our experiences of SD.

Q4 What are your views on the proposals to improve the accountability framework for sustainable development in Wales? [Chapter 5]

- We welcome the proposals to embed scrutiny and accountability within existing frameworks and agree that the Auditor General in Wales should be the auditor for many of the organisations subject to the duty. However we have concerns as to whether the Wales Audit Office currently has the specialist expertise in SD to deliver such a large number of audits, to a detailed level that will provide meaningful recommendations.
- There will be resource implications for audited organisations during audit periods (preparation, actual audit and dealing with recommendations), and it is unclear as to the proposed frequency and detail of audits.
- If joint strategic planning is to fall within the remit of the duty there may be issues over the audit of such decision making processes. It is unclear as to how liability would be apportioned between partners in a case of non compliance.

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

- The intention to legislate for a SD Bill is excellent and essential, however as it stands in this White Paper it may make it too easy for organisations to tick boxes and carry on business as usual. Welsh Government needs to ensure that this is not the case – via detailed statutory guidance combined with effective scrutiny, challenge and accountability of organisations.
- There is no mention in the White Paper of senior staff accountability and responsibility for the SD duty. There is potential for a named individual in an organisation to have specific responsibility for the duty similar to the Equalities Act.
- The consequences for organisations of non compliance with the duty are not detailed, or how this will fit into the existing structures and Regulatory Outcomes.
- It is also not detailed as to whether the cumulative impact of organisations decisions will be assessed – both the cumulative impact of individual organisations decisions, and the wider collective impact of all the public sector organisations in Wales. At present Welsh legislation does not compel local authorities, or other public sector organisations, to work together, which will lead to a less sustainable outcome for Wales – e.g. the current LDP process does not always truly facilitate collaborative approaches between local authorities on housing allocations and transport solutions.

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Sustainable Development Bill White Paper		
3 December 2012 – 4 March 2013		
Name	Professor John Morgan	
Organisation	UK National Commission for UNESCO (United Nations Educational, Scientific and Cultural Organisation)	
Address	UK National Commission for UNESCO, Suite 98, 3 Whitehall Court, London, SW1A 2EL	
E-mail address	jbridge@unesco.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]
<p>Please provide your views below:</p> <p>The UK National Commission for UNESCO (UKNC) strongly welcomes the embedding of sustainable development behaviours in the cultures of organisations, particularly regarding the high level decisions and corporate planning processes - as this significantly determines what will end up being put in place, measured and therefore outcomes.</p> <p>The focus on applying the measures where the organisations concerned have the greatest impact is welcomed</p> <p>Sections 1:12 and 1:13 are pertinent for the UKNC, particularly exchanging knowledge, the sharing of best practice, benchmarking and working in partnership internationally. The UKNC's policy briefing on Education for Sustainable Development is attached to this response. The alignment with The Future We Want UN outcomes document is welcome, as is Wales playing a full part in taking forward the Sustainable Development Goals. The UKNC notes that UNESCO has been given special responsibility by the UN Secretary General for the Education and Science elements of the proposed goals. . .</p> <p>Wales' commitment to the two Declarations at Rio +20 demonstrates the leading role it can play (section 1:13).</p>	

Q2

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

Please provide your views below:

The proposal for a Commissioner and secretariat staff is welcomed and the UKNC welcomes the emphasis on enabling and support.

The UKNC is acknowledged as a provider of advice and expertise to government in areas of UNESCO competency, including Education for Sustainable Development (ESD) and welcomes the opportunity as the appropriate cooperating body to exchange best practice, including via the UK at UNESCO level. The UKNC's policy brief on ESD, which has a specific section on ESD is attached and also referred to in Qu5.

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:

The proposals are long term and are in line with the vision

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:

Regarding Education for Sustainable Development (ESD policy briefing attached) - Key recommendations:

1: It is essential to develop an overarching UK Strategy for Sustainable Development which sets out a clear vision about the contribution learning can make to its Sustainable Development Goals. Wales has much to contribute to this.

2. ESD would benefit from an overall strategic framework which puts it firmly at the core of the education policy agenda in all of the jurisdictions in the UK. This would provide much needed coherence, direction and impetus to existing initiatives and scale-up and build on existing good practice. Importantly, at a time of austerity it could help prevent unnecessary duplication of effort and resources. As yet, there is no coherent view at policy or practice level about how ESD can most appropriately be experienced by learners, in a progressive sense, from, say ages 4 to 21 and beyond. A commission set up to examine and report on this question would help institutions plan effectively.

3. A pan-UK forum should be established for overseeing the promotion, implementation and evaluation of ESD across the UK, with a clear remit to work collaboratively with the UK Government and all three devolved administrations, whilst respecting their jurisdictional policy remits.

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Name	Chris Groves	
Organisation	Cardiff Transition	
Address	13 Boverton Street Cardiff CF23 5ES	
E-mail address	info@transition.com	
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]
Please provide your views below: The proposal that public organisations should have a duty to make sustainable development an organising principle of their policies and activities fails to substantially improve on the proposals on sustainable development in the Government of Wales Act 2006 (GWA 2006), which implies only that WAG has the power to act in certain ways. Just as there is no binding duty set out in the GWA 2006 relating to what sustainable development specifically requires as contrasted with unsustainable development, the White Paper similarly lacks such a definition, proposing only that decisions are taken with ‘consideration’ of SD. It may be said that SD, in practice, requires only a definition based on the Brundtland concept in order to allow policy flexibility, particularly as the definition of SD beyond this level of specificity is heavily contested in academic and policy literature. Yet this is arguably no less the case with, say, equal opportunity as an ‘organising principle’ for	

Q2

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

Please provide your views below:

The role of the body is defined as 'supporting organisations to embed sustainable development as their central organising principle' (s. 3.4). It is claimed that it will be an advocate for future generations by producing a report on the impacts of policy on future generations (s. 3.6). As such, the extent of the powers of the body covers only what appears to be an informational role. The capacity to constructively challenge organisations' embedding of SD and to be critical of government appear to be framed as being possible without any powers beyond the provision of information. As Rupert Read has argued in a recent report produced for the Greenhouse thinktank (Guardians of the Future, 2011, http://www.greenhousethinktank.org/files/greenhouse/home/Guardians_inside_final.pdf), the voicelessness of future generations must be counterbalanced in the present by powers exercised on their behalf that can exercise a genuine influence over policy. The powers of review legitimately ascribable to a body that acts as an advocate for

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:

It is unclear from the proposals what a process of engagement around SD for communities would look like and how it would operate. Participation as a substantive part of SD, in the sense that having the power to influence their future is widely seen as vital to the resilience of communities. If SD requires a more specific definition than is provided in the White Paper (as we have argued above in response to Q1), then engagement and participation also require more detail.

As well as a right to engagement, there also has to be a right to redress for communities, grounded in a concern for SD. This needs to come in form of a strong and independent commissioner who can support or has judicial remit. The current proposals do not offer this for communities.

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:

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>

National Library of Wales response to 'A Sustainable Wales: Better Choices for a Better Future' – consultation on proposals for a Sustainable Development Bill

National Library of Wales (NLW) was pleased to attend the consultation day events and now submits this response on the proposed Sustainable Development Bill.

Background on National Library of Wales

NLW was established by Royal Charter in 1907. The Library receives its core funding from the Welsh Government as a Welsh Government Sponsored Body through grant-in-aid.

Response to Question 1: NLW's response to the proposals for a new duty to embed Sustainable Development as the central organising principle of selected organisations in Wales.

There is already a strong commitment to sustainable development in its broadest sense at NLW and it is embedded within our current strategy "to collect, preserve and give access to all kinds and forms of recorded knowledge".

As Wales' national library, we hold vast collections of written and other multi-media material on a wide range of subjects. The Library's education programme encourages young people to learn from a range of activities focusing on education. As a public body strive to operate in as sustainable manner and are accredited to BS 8555 Level 3. We collaborate and partner other individuals, bodies and organisations both within and outside Wales to deliver our outcomes. We are committed to engaging with our stakeholders and are ultimately guided by the principle that we are delivering one of the great libraries of the world for the people of Wales, for whom we hold the national collections in trust. One of our overarching aims is to safe guard and sustain the various collections indefinitely for the use of the people.

The importance of governance which embodies the values of fairness and social justice is recognised by NLW, and there are in place various strategies and plans to enable that this happens.

NLW agrees with the broad definition of Sustainable Development in Wales and includes enhancing the peoples' economic, social and environmental well-being, achieving improved quality of life for both the current and future generations. We in particular welcome the inclusion of the cultural environment and we view this in its widest sense to included language; we are an exemplar of sustainability for the Welsh language. A single definition of Sustainable Development would be helpful.

Support for the key elements

- a clear focus on what the organisation is seeking to deliver in support of the future wellbeing of Wales - the 'Outcomes';
- ensuring decisions taken on how the outcomes can best be achieved are fully informed by consideration of the effect on economic, social, environmental and long term wellbeing.

Response to Question 2: NLW's views on the proposals for an independent Sustainable Development body

The support, guidance and advice that will be provided by the new independent body will be most welcome and it is hoped that this can be specific to the individual organisations requirements.

Response to Question 3: NLW's views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent Sustainable Development Body.

- i) NLW is listed in Phase 1 of the duty. NLW is about to have a new CEO and Librarian and will begin the process of re-viewing current strategy having one year remaining. A new strategy will obviously need input from the incoming CEO and will take time for him to understand and develop a robust strategy and possible vision review. It is envisaged that this process, which will involve extensive internal and external consultation, will take at least 12 months to complete. We are therefore suggesting that we should be included in Phase 2 of the duty, rather than Phase 1. This would enable us to ensure that our new strategy, Corporate and Operational Plans, and the cultural and organisational development are aligned, robust, relevant and agile, reflecting the duty's requirements.
- ii) In order to maximise its usefulness it would be beneficial for the Sustainable Development Body to be in place (or some functionality of the Body) by 2014/15 to enable bodies to develop and implement appropriate strategies etc to be in place in the run up to duty imposition.

Response to Question 4: NLW's views on the proposals to improve the accountability framework for Sustainable Development in Wales

NLW welcomes the proposals to improve the accountability framework for Sustainable Development in Wales and agrees with the Welsh Government's assertion that 'the most effective way to deliver accountability and robust scrutiny is to embed it with the frameworks already in place for public service organisations'.

Response to Question 5: NLW's comments on related issues (outside the 4 specific questions)

We are pleased that the white paper states that there must not be additional bureaucracy and that flexibility between organisations is necessary for the bill to succeed. NLW is concerned that, under the bill, the WAO's role will include Sustainability, there is concern that whilst there is unlikely to be additional funding to implement the Bill the WAO will expect its charges to increase as a result of the Bill.

The current funding system does not encourage long term planning as no long term commitments can be made when future funding is so uncertain. The current lack of facility to carry funds between years does not allow a reserve fund for large projects to be established. There is a requirement for not only sustainability to consider the long term but also for funding to be considered in the long term with some certainty over the future.

O'Hanlon, Marion (PPCS - Property Division)

From: Craig Owen [cowen@wcva.org.uk]
Sent: 04 March 2013 17:08
To: SD Bill
Cc: 'Hannah Sheppard'; Jessica McQuade; 'craigowen1@mac.com'
Subject: SD Bill Consultation input from Wales Africa Community Links

Dear Sir / Madame,

I am forwarding this brief input on behalf of the 120 charities and organisations involved in the [Wales Africa Community Links](#) network, so that their voice can be registered on key issues in relation to the SD Bill *in addition to* the excellent and more detailed submissions we are supporting (and have fed in to) from Wales Council for Voluntary Action (WCVA) and the Wales International Development Hub.

The key priorities Wales Africa Community Links networks members wish to see reflected in the development of the new Sustainable Development Bill – primarily in response to Q1 of the consultation document - are:

- Wales' sustainability actions and agenda should be clearly couched in the context of *global sustainability*; **actions in Wales should not undermine social or environmental sustainability elsewhere**, specifically in developing countries where the impacts on the world's poorest people are most harshly felt.
- The Bill should create the space for direct connection between Welsh SD frameworks and the **global Sustainable Development Goals / SDGs** currently under negotiation (the UN post-2015 framework due to replace the Millennium Development Goals / MDGs).
- We believe it would be extremely powerful for Wales to **develop our own "SDGs,"** based upon the globally agreed goals in 2015, that link local to global action. This concept could be extended to empower individual Welsh communities and organisations to develop their own 'SDGs' linking local to global issues appropriate to their context – facilitating a 'grassroots up' ownership of sustainable development.
- **Education for Sustainable Development and Global Citizenship (ESDGC)** is critical to fostering understanding of SD and has seen great progress and achievements under Welsh Government leadership over the last decade. This momentum should be built upon and while we believe firmly that remit for ESDGC must remain within education, there can be significantly greater join-up between Welsh SD Strategy and education planning.

For greater detail, particularly against the specific questions posed in the consultation, we would log our support for the submissions being input from WCVA and the Wales International Development Hub / Welsh Centre for International Affairs.

Many thanks,

Craig Owen
Wales Africa Community Links & International Programme Manager

Wales Council for Voluntary Action (WCVA)

Baltic House, Mount Stuart Square, Cardiff, CF10 5FH. **UK**

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DISCLAIMER: Any views or opinions presented within this e-mail are solely those of the author and do not necessarily represent those of Wales Council for Voluntary Action, unless otherwise specifically stated.

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CF10 5FH

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Company Limited by Guarantee: 425299
Registered in Wales

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Fax: 029 2043 1701
Minicom: 0808 180 4080

Email: enquiries@wcva.org.uk

Web: www.wcva.org.uk

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

4th March 2013

Dear Colleague,

Cardiff Partnership Response: - Sustainable Development Bill: Helping Shape a Better Future for Wales

Thank you for the opportunity to comment on the proposals for the Sustainable Development Bill. The Bill was included as an agenda item at the December meetings of the Cardiff Partnership and there was a clear consensus amongst group members that sustainable development should be a central organising principle of the Welsh Government and Welsh public service organisations.

The new duty requires sustainable development to be embedded within strategic decision making processes to clearly identify the outcomes that organisations are working towards. We will reflect on the most appropriate mechanism for demonstrating this in due course, however Cardiff has already taken the progressive step of integrating four previously separate statutory strategies under seven shared outcomes in its Single Integrated Plan, “What Matters”.

The seven outcomes clearly represent long term aspirations relating to economic, social and environmental well-being. The new approach to collaboration in Cardiff also provides clear governance arrangements for partnership working. It allows for a consistent approach to performance management designed to demonstrate how individual projects and interventions impact the broader outcomes.

In this way, the Cardiff Partnership has pre-empted many of the requirements of the Bill. We have strengthened our partnership governance framework in relation to sustainable development and secured better decision making to improve the wellbeing of the city.

The Partnership therefore welcomes the recognition within the Bill that public service providers are required to work together at both local and regional levels in order to achieve shared outcomes. This level of collaboration is essential to achieving the outcomes that matter most to citizens.

It is therefore important that local collaboration is enshrined in statute. This is particularly relevant as there is a real concern that, given budgetary pressures,

individual organisations may retrench from the level of collaboration needed to achieve meaningful change in priority areas.

The Cardiff Partnership would therefore encourage the Welsh Government to legislate, through the Sustainable Development Bill, and put the Local Service Board on a statutory footing.

This is also important as there is a clear need to establish an appropriate mechanism for coordinating a number of funding streams previously administered by the separate statutory partnerships.

The Local Service Boards across Wales could ensure that, as partnerships are integrated, different funding streams are coordinated effectively to achieve shared outcomes. This would also ensure that all key local service providers have the opportunity to influence how spending is allocated with due regard given to sustainable development.

There is also a role for the Sustainable Development Bill in fostering further collaboration between local authorities. As it stands there is no real framework which allows sustainable development to become embedded in organisations and this needs to be strengthened if this is to become a reality. The best example of this is the Local Development Plan process which will have a huge impact on sustainable development yet there seems to be little in the legislation that compels local authorities to work together. This Bill could go some way to achieving this aspiration; however Welsh legislation does not compel local authorities, or other public sector organisations, to work together, which will lead to a less sustainable outcome for Wales. For instance, Sustainable Development is heavily embedded within our LDP process in Cardiff, but the framework is not currently in place to facilitate collaborative approaches between local authorities on housing allocations and transport solutions on a regional level. This is important to maximise well being across Wales.

In addition, whilst recognising that the SD Bill must focus on processes that can be applied across all areas of decision-making, it would be helpful if the Welsh Government use the Bill to highlight cross-cutting issues that foster practical collaboration to deliver real and measurable change on the ground.

A recent example of this in Cardiff has been the development of a city-wide Food Charter and sustainable food programme, under the auspices of the Cardiff Food Council. The aim of the programme is to use food as a common vehicle for engaging a number of stakeholders with health and sustainability issues. By bringing seemingly disparate areas of work together organisations can maximise social, economic and environmental outcomes.

Looking forward, the challenge for all partners invested in achieving a genuinely sustainable future is about more than simply demonstrating sustainable development as a guiding principle. It is about collaborating effectively at all levels of government – including working nationally, regionally, at a local authority level and directly with both Community Councils and communities themselves to exploit opportunities that promote the well-being of our areas.

We trust you will find this response useful and we look forward to taking this important agenda forward, together.

Yours sincerely



Councillor Heather Joyce
Leader of Cardiff Council and
Chair of the Cardiff Partnership Leadership Group

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		
Organisation		
Address		
E-mail address		
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>As a local authority in Wales, we feel that the proposal for the principle is correct, but that it needs to be clearer about its purpose – "development that meets the needs (citizen-focused outcomes) of the present without compromising the ability of future generations to meet their own needs (citizen-focused outcomes)". We believe that, in order to embed sustainable development, there is a need for the clear categorisation of a population's basic needs. This is to enable the selected organisations to understand and plan citizen-focused outcomes around those basic needs. One interpretation of basic needs categories could be, a person's access to:</p> <ul style="list-style-type: none"> • Affordable housing • Clean and renewable energy • Clean water, air and food • Education • Efficient transport • Social justice <p>From a Central Organising Principle perspective, we should seek to understand "the effect" of the "economic, social, and environmental" context on each population need, with the aim of understanding the influences and decisions taken on the successful achievement of these citizen-focused outcomes.</p>	

Q2

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

Please provide your views below:

The creation of an independent body sounds like a bureaucratic and expensive use of public funds, for what seems to be the facilitation function ("**to join up organisations, sources of evidence and best practice in order to support the implementation of the duty**") of a supporting body that only perform an advisory role.

We feel that with this current aim the independent sustainable development body will not offer any real value to the sustainable development agenda in Wales. This aim, as [a facilitator], is too narrow in scope and should expand to include a significant focus on research and intelligence gathering to support the implementation of the duty and to support the [re]direction of government priorities whether historic, current, or future.

We also feel that the body should align research to what current government priorities are, but also to look at historic evidence for lessons learnt and to understand the implications of past policy and legal decision on the citizens of Wales, to avoid making the same mistakes.

There is a need for sound research and intelligence in order to support the effective decision-making of the organisations encompassed by this legislation. A body with these functions would be beneficial to the implementation of the duty and a useful resource to support decision-making, especially with smaller organisations.

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 have no concerns about the timing of the implementation of the duty for local authorities. However, the Police are a major public organisation and key partner of the Local Service Board and their exclusion is noticeable, especially as they contribute to strategic collaborative decision-making, as with all other key partners, who are included. This is a point to note as the Bill specifically references collaborative strategic planning and the statutory role of integrated planning "for shared outcomes ... by Local Service Boards through single integrated plans" where "LSB member organisations ... include the local authority, health, police, the third sector, and others".

In addition, the inclusion of Town and Community Councils in the duty is a concern. Our particular concerns relate to the practical arrangements and approaches taken by Town and Community Councils to ensure the decisions they take consider sustainable development as the Central Organising Principle. We do not believe that enough support exists to provide Town and Community Councils with the necessary research and information based on the kinds of decisions they make.

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 responsibility for scrutiny falls on the Auditor General for Wales, and that the Wales Audit Office is the correct organisation to audit local authorities with their implementation of the duty.

However, we are concerned that the scope of accountability, as defined by the accountability framework, stops prior to making the decision, and does not extend to or beyond the making of a decision. We believe this will limit accountability with the outcome of decisions made. This is important because without some form of external scrutiny investigation into the impact on outcomes, then how is an organisation meant to learn about the implications of decisions taken on the lives of Wales' citizens?

We are accountable to the Welsh citizens and for the affect our decisions have on them, not only for the process of decision-making. This accountability framework needs a change of perspective, to consider the decision-making process but focus on the outcomes for the citizens of Wales.

Finally, there is a significant concern that the proposal narrows accountability. If the public sector alone were scrutinised then it would appear that the public sector alone bears the burden of accountability. The public agencies processes are scrutinised by the WAO, but the type of activity to produce outcomes for communities are frequently delivered in partnership with private and third sector organisations. A project may fail to deliver sustainable outcomes for a range of reasons associated with a range of partners. Where the public sector alone has accountability for planning such projects, it is more likely to act over-cautiously and in a risk-adverse way because it will have to accept accountability for the actions of other partners.

While it is no bad thing to argue that the local authorities and other public agencies ought to have confidence in partners before entering into a project, can they be expected to have the same degree of detailed knowledge and understanding of a partner's internal processes as the partner agency has itself? Without the burden of accountability resting on partner organisations, and requiring the change, can we expect them to engage in potentially costly and disruptive reform of their internal processes?

We suggest that limiting accountability to the public sector (and overwhelmingly the local authority) will lead to an environment where partner agencies are ill prepared in sustainable development understanding and techniques, and where local authorities are ill at ease and risk-adverse when it comes to engaging partners in sustainable development projects.

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:

We would like to reiterate our issue relating to the accountability framework (Qu.4) and the omission of this Bill to look at the affect of decisions made on the people of Wales. In addition, without some form of prescribed detail, the Bill is open to interpretation, and the interpretation from a sustainable development perspective is very wide indeed.

We would also like to add a point of note, referring to some national discussion about whether we actually need an SD bill, on the basis that we already incorporate these aims in our plans.

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>



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

04th March 2013

Dear Sir,

**WELSH GOVERNMENT WHITE PAPER 'A SUSTAINABLE WALES: BETTER CHOICES FOR A BETTER FUTURE
– CONSULTATION ON PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL'**

Thank you for inviting comments on the Welsh Government's proposals to bring forward legislation to make sustainable development the central organising principle of the Welsh Government and Welsh public service, to be supported by the creation of a new statutory sustainable development body for Wales.

These comments are from Dŵr Cymru Welsh Water, the statutory water and sewerage undertaker that supplies over three million people in Wales and some adjoining parts of England. We are owned by Glas Cymru, a single purpose, not-for-profit company with no shareholders. We provide essential public services to our customers by supplying their drinking water and then carrying away and dealing with their wastewater. In this way, we make a major contribution to public health and to the protection of the Welsh environment.

Dŵr Cymru was very pleased to become a signatory to the Welsh Government's sustainable development charter in 2011. Our day-to-day business involves balancing the desire to minimize our environmental impact with the need to keep the essential services we provide affordable for our customers. Dŵr Cymru is also acutely aware of our key role in supporting sustainable economic development in Wales. These balances go to the heart of sustainable development.

I hope that the comments in the attached paper will be useful. I would be very happy to meet you to discuss any of the issues raised.

A copy of this letter has been sent to Prys Davies, Deputy Director, Welsh Government and to Ceri Davies at Environment Agency Wales.

Yours faithfully,

Tony Harrington
Director of Environment

Email: tony.harrington@dwrcymru.com



We welcome correspondence in Welsh and English
Rydym yn croesawu gohebiaeth yny Gymraeg neu yn Saesneg

COMMENTS BY DŴR CYMRU WELSH WATER ON THE WELSH GOVERNMENT'S WHITE PAPER 'A SUSTAINABLE WALES: BETTER CHOICES FOR A BETTER FUTURE – CONSULTATION ON PROPOSALS FOR A SUSTAINABLE DEVELOPMENT BILL'

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

Dŵr Cymru is supportive of the Welsh Government's wish to embed sustainable development as the central organising principle of relevant public bodies in Wales.

From Dŵr Cymru's perspective, the new Natural Resources Wales (NRW) will be a key player in helping our company to contribute to sustainable development in Wales in the years ahead. The sustainable development duty that NRW will assume in 2015 will complement its existing statutory purpose (to ensure that the environment and natural resources of Wales are sustainably maintained, enhanced and used).

Having said that, the Welsh Government must do what it can to minimize the compliance costs for relevant public bodies. We are therefore concerned about the complexity of some of the emerging proposals which seem to involve a system of behaviours; objectives; and outcomes. As the consultation paper implicitly acknowledges, there is a real danger that the duty will become a tick box exercise, rather than a tool to ensure that public bodies routinely consider the long term and wider impacts of their decisions.

Particularly at a time of economic austerity, Wales must be seen as "open for business" so the Welsh Government must ensure that the new duties do not put Wales at a competitive disadvantage. Economic, environmental and social policies should be applied in a way that is seen as enabling, not obstructing, business to thrive in Wales. Public bodies must not be allowed to transfer their new sustainable development obligations onto private sector organizations that are promoting major projects in their areas of responsibility, effectively shifting the burden away from the public to the private sector.

Dŵr Cymru is keen to foster partnership working with the public sector in Wales to help deliver sustainable development on the ground. We hope that the new sustainable development duty will encourage relevant public sector bodies to work with us and so ensure that, for example, implications for future water supplies and waste water management are factored into long term decision making processes. At its best, greater collaboration should bring benefits to all concerned, including in terms of cost savings.

For example, the threats posed by climate change will mean that much more "joined up" thinking will be needed to prepare Wales for expected changes in our weather patterns and resultant implications for surface water management. As well the strategic corporate plans referred to in your consultation paper, we hope the new duty will influence day to day decisions on things like flood planning, highway drainage and the use of permeable materials for urban surfaces.

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

Dŵr Cymru welcomes the formalization of the role of Wales' Commissioner for Sustainable Futures, Peter Davies, in heading the new statutory sustainable development body.

Our company already works closely with Peter. We were delighted when he agreed to Chair the Independent Environment Advisory Panel that Dŵr Cymru established last year to help us maximise the value of our investment programme for customers; and to secure a safe and sustainable future for our environment - one that is able to support the economy and quality of

life for generations to come. Peter rightly enjoys considerable respect and confidence in all quarters.

We therefore appreciate how much practical support the Welsh Government's Commissioner for Sustainable Futures will be able to offer to the public sector when they assume their new duties. We hope that the new body will become a conduit for disseminating best practice and so help to keep costs down for those bodies subject to the new duties.

Other bodies operate within this general policy area in Wales, notably Cynnal Cymru and Business in the Community (BITC). There seems to be some overlap between their functions, e.g. in providing advisory services, and this duplication may be compounded by the establishment of the new body. Although it is apparent that there is already more collaborative working between Cynnal Cymru and BITC, the Welsh Government should consider how these bodies can work more seamlessly with the new body to combine expertise and to achieve further economies of scale.

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 can see the advantages in phasing implementation, starting with those bodies most likely to be most familiar with sustainable development concepts, such as the Welsh Government and Natural Resources Wales.

We can also see the sense in establishing the new sustainable development body to coincide with the duty being placed on the first batch of public bodies.

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

Dŵr Cymru accepts the need for some independent scrutiny to ensure that the relevant public bodies are fulfilling their new duties. Dŵr Cymru has no strong views about who should perform this role: the Auditor General for Wales seems a suitable candidate, assuming staff receive the requisite training.

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

It is very disappointing that the White Paper includes no assessment of the potential costs and benefits of implementing the Bill. Such an assessment would have informed the debate on, for example, the case for establishing the proposed new sustainable development body. In itself the paper does not follow the new duty, which must ensure that all policy decisions are evidence based and have regard to the environmental, economic and social consequences of the decision in question.



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WWF CYMRU RESPONSE TO White paper 'A Sustainable Wales. Better Choices for a Better Future'

WWF Cymru is the Welsh office of WWF-UK, which in turn forms part of the world's largest environmental network.

Please note that this consultation is in addition to our joint response submitted with Wales Environment Link. The two responses should be read in combination to gain a full understanding of our position.

WWF Cymru is pleased that the Welsh government has decided to legislate for sustainable development. This Bill will be of fundamental importance to future generations in 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?

1. Scope and wording of duty

1.1 WWF believes that sustainable development is the only tenable route to a prosperous and healthy future for the world. Wales has an opportunity to be at the forefront of the changes which will be necessary in the future to meet the problems the world is facing.

1.2 WWF believes that legislation is necessary to drive the changes required by us all, if we are to become a more sustainable nation, prepared for the future through practising sustainable development. Legislation which adopts existing formulations of legislation from the UK is unlikely to be sufficient and will not be 'ground breaking'. This would be unfortunate given the results of a survey conducted by Beaufort research¹ for WWF last year where 63% of respondents said they agreed that the Welsh Government should try and be a world leader in sustainable development". Just 16% disagreed.

1.3 WWF Cymru agrees with Welsh Government's stated intention to strengthen the current sustainable development (SD) duty in the Government of Wales Act, and its commitment to legislate to embed SD as "the central organising principle in all [its] actions across government and all public bodies"².

¹ Face-to-face interviews were conducted with 1018 adults across Wales in October 2012. The survey formed part of the Beaufort Wales Omnibus Survey which is designed to be representative of the Welsh population.

²Welsh Labour Manifesto 2011, Chapter 11, P92 <http://www.welshlabour.org.uk/uploads/welsh-labour-manifesto.pdf>

1.4 The need for legislation was clearly demonstrated in two reports which evaluated progress towards embedding SD in decision making and in policy making. These reports were produced 10 years after the Assembly was formed with a duty to 'promote SD'. The Auditor General concluded that SD was *not* embedded in Government decision making and recommended that WG "Embed sustainable development in the Assembly Government's governance procedures, financial planning, core business planning processes, change programmes and human resources processes."³

1.5 The report for WWF Cymru by Dr Alan Netherwood,⁴ investigated linkages between 'One Wales One Planet' and actual policy making and outcomes across department. It found very mixed application of the aims and principles and therefore confirmed the issues in the Auditor General's report.

1.6 Finally, a further report investigated the Road to Rio of organisations in Wales. It concluded that the Welsh local authorities could be said to have lost their way on SD since 2000, mainstreaming ideas but becoming less ambitious.⁵

1.7 However, we do not believe that the changes proposed in the White Paper, i.e. 'to consider' economic, social and environmental wellbeing in decision making, serve to strengthen the duty. To effectively strengthen the governance framework in Wales in relation to SD, legislation must go further than the existing duty – as specified in section 79 of Government of Wales Act i.e. "to promote sustainable development (through a Scheme)."

- As Prof A. Ross argued⁶ "A key issue for legislators to decide is which legislative model for sustainable development is appropriate for their jurisdiction. In the context of the UK and the devolved administrations, three possible models exist that reflect different levels of political commitment. The first focuses on creating binding legal procedures considered vital to implement sustainable development fully, such as the production of a strategy, wide consultation, and reports on progress.
- The second model enhances the status of the sustainable development strategy by introducing a substantive duty across government to ensure that all its activities are consistent with the objectives and principles set out in the sustainable development strategy. This approach gives the strategy legal status, provides a clear point of reference for those bodies with obligations relating to sustainable development and, generally, improves the understanding of the term. It also ensures more consistency in its use and application.....
- If the real cultural change described earlier is actually going to happen, then governments need to legislate to make sustainable development the central organising principle of governance. This third model requires two additional legislative provisions. First, there must be a clear declaration of purpose by government about the role of sustainable development in all its activities. Secondly, the legislation must impose meaningful substantive duties on all government bodies. These duties should do more than simply require them to 'have regard to' or 'take account of' sustainable development. Sustainable development needs to be more than a material consideration, or one objective to be balanced against others. "

Now from the intentions set out by WG in the White paper, it appears that WG are proposing model one- as laid out by Prof Ross. However, WWF believes that in order to

³ Auditor General for Wales, Sustainable development and business decision making in the Welsh Assembly Government. 2010, Wales Audit Office

⁴ Netherwood, A. Progress in embedding the 'One Planet' aspiration in Welsh Government. 2011. WWF

⁵ Netherwood, A and Flynn, A. What can an Earth Summit do for Wales? 2012 WWF

⁶ Ross, A. Wales central organising principle. IWA.2012

meet their aspiration of SD as 'central organising principle', then it appears the Bill needs to follow model three i.e. it must have a clear declaration of purpose and impose *substantive* legal duties which make it clear that SD is more than just a material consideration.

2.1 WWF is of the view that the White paper proposals currently fall short of giving proper effect to this intention. The legislation must strengthen and extend the current duty. In our view, to meet the shortcomings identified by the Auditor General and produce different outcomes for Wales, then many of the functions of public bodies must be subject to this duty. 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".

2.2 WWF believes this wording has the considerable advantage of reflecting the exceptions and limitations in relation to Ministers' powers and duties. Peter Roderick cogently argued in his discussion paper⁷ that using verbs which are weaker than 'achieve' (such as to 'further' or 'contribute to 'SD') would place the duty on a par with all other duties. As the Welsh Government has stated its commitment to legislation that strengthens the current duty, it is clearly necessary to extend present formulations. Moreover, Peter advocates that "By requiring all the Ministers' (other) duties and powers to be exercised to achieve sustainable development, SD would operate as an over-arching duty, in effect creating a purpose for which their other powers and duties were to be exercised."

2.3 WWF believes the WP proposal (para 2.23) to restrict the duty to 'high level decisions' is fundamentally flawed when viewed in the context of the purpose of legislation. The Auditor General's recommendations in 2010, report were specific in this regard.

"The Assembly Government needs to build on the foundation of One Wales: One Planet by adopting a more strategic approach. Its work under the new Scheme should be more tightly

focused on challenging existing ways of doing business in the following key areas:

a legislation;

b policy and strategy; and

c spending taxpayers' money.

To move beyond the rhetoric and make this an organisational reality will require more than

changing business processes or the development of tools and initiatives....."

2.4 It recommends that WG "Embed sustainable development in the Assembly Government's governance procedures, financial planning, core business planning processes, change programmes and human resources processes."⁸

2.5 It seems to WWF that the Welsh Government clearly intended to implement these recommendations. When he announced the legislative programme, the First Minister told the Assembly that "We will legislate to embed sustainable development as the central organising principle in all of our actions across Government and all public bodies, by bringing forward a sustainable development Bill."

⁷ Roderick, P. The National Assembly for Wales and Taking the Longer view. 2011. WWF

⁸ See footnote 3

2.6 Therefore, a white paper which proposes that these duties will only apply to ‘high level decision’ seems to WWF as clearly insufficient to meet the commitments, particularly to embed it “*in all our actions*”.

2.7 It may of course be that there are specific functions to which the duty should *not* apply. If so then they should be specifically excluded by the Bill. For example, this may be appropriate for clinical decisions in the NHS. WWF recognises that there will be many public functions to which the duty need not apply. There are a number of ways of prescribing the duty more narrowly. Firstly, the Bill could list the statutes (and provisions) to which the duty either does or does not apply. Alternatively, the insertion of the term “relevant” could be used to refine the public functions to which the duty would apply. Clearly, there may be some ambiguity around which public functions are relevant public functions, However, this is not an unprecedented formulation and would ensure that many public functions were excluded.

2.8 If the Government decides not to provide a substantive duty as we suggest, then WWF believes it will be essential that a sustainability appraisal is made of all High level strategies etc., to which the duty applies. This must be published and measures taken to avoid or mitigate significant negative impacts of any such plans. This would give more clarity to the phrase ‘consider economic, social and environmental impacts’.

2.9 It seems to WWF that ensuring that financial decisions and procurement are captured by the duty is particularly important if real change to business as usual is to be achieved.

2.10 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, and 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.

2.11 We commend the recognition of the international scope (para 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 one of the key ways 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.

2.12 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.

Language of the proposals

3.1 In terms of strengthening the duty and the desire to be ground-breaking, WWF is also concerned about the language used in the white paper. As we have contended previously, to be ground breaking, this legislation should go beyond formulations used in other legislation, both within the UK and elsewhere. The formulation we suggest in Para 2.1, above when combined with a definition of SD go much further towards meeting this brief.

3.2 The White paper's para 2.12 also refers to long term and preventative measures as key. These again are rather vague when compared to principles in the existing Scheme, such as 'precautionary principle'. Please refer to the Annex for our suggested wording.

3.3 WWF would however, refer WG to the following principles for international laws which might help guide the appropriate drafting of the Bill.

The 7 Principles of International Law Relating to Sustainable Development, agreed by the International Law Association and endorsed by the United Nations⁹

- 1 The duty of States to ensure sustainable use of natural resources;
- 2 The principle of equity and the eradication of poverty;
- 3 The principle of the precautionary approach to human health, natural resources and ecosystems;
- 4 The principle of public participation and access to information and justice;
- 5 The principle of good governance;
- 6 The principle of common but differentiated obligations;
- 7 The principle of integration and interrelationship, in particular in relation to human rights and social, economic and environmental objectives

3.4 Currently numbers 1,2,5,7 are explicit or implicit in the white paper. However, number 3 is not mentioned and number 1 is certainly not sufficiently explicit. WWF would prefer that the first principle be represented in the form of an explicit recognition of the need to respect and operate within environmental limits. We would consider that the sustainable use of natural resources is necessary to achieve this broader goal.

3.5 Existing UK legislation already uses phrases such as 'have regard to the need to contribute to the achievement of SD' or requiring bodies to do something in a way that 'contributes to the achievement of SD'. Clearly, anything less than this wording will not be ground-breaking.

3.6 Currently the wording proposed seems to be around 'consider the effects on economic, social and environmental wellbeing' or 'consider long term wellbeing'. WWF are not convinced that the use of the phrase 'consider' is stronger than existing formulations. We also believe that, in a legal sense, 'consider' is in fact weaker than 'have regard to'.

3.7 WG has already suggested (in its first consultation) that a stronger duty than "have regard to" is required. As we know, 'have regard to' is very weak, partly because it shows no priority to SD over any other matters. A lack of clarity on the priority of SD is again something which was criticised by Auditor-General previously. Therefore the language needs to ensure the primacy of this duty.

3.8 WP (white paper) Para 2.9 suggests that the duty should "drive the application of the key principles of sustainable development". However, it is not entirely clear what the 'key principles' referred to are. They seem to be economic, social, environmental and long term wellbeing or long term thinking, focus on prevention and impact on future generations (although these are also referred to as '

⁹ Sustainable Development: New Delhi Declaration of Principles of International Law relating to Sustainable Development (Resolution 3/2002). Agreed at the 70th Conference of the International Law Association, New Delhi, India (2002).

key components' not principles in para 2.12). There is a lack of clarity on whether economic, social and environmental wellbeing are seen as outcomes, principles or exactly what is their role within the Bill.

3.9 WWF is very concerned at this approach and strongly urges WG not to reword the principles of SD which are contained in the existing One Wales One Planet and the previous UK SD strategy. We attach (in the annex) some elements of a Bill which the Third sector alliance for sustainable development have had drafted. The Alliance has been working constructively to find a suitable structure and wording of a duty, a definition and the principles which would be effective in strengthening current duties. Although, we do not consider this to be appropriate finalised wording, we are suggesting this as an approach worthy of WG's consideration.

3.10 WWF has specific concerns about the use of 'wellbeing' in the White paper.

- WWF reiterates its concern over 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 GOWA 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.
- Therefore if WG persists in replacing use of sustainable development with economic, social and environmental wellbeing, the Bill will need to clearly define these. WWF contends that doing this will lead to 'wellbeing' competing with, and undermining SD as the governing principle.
- In particular, the legal view is clear that the conflation of wellbeing and sustainable development is a concern¹⁰. The use of wellbeing does not seem to add anything to the understanding of sustainable development.
- The concept of "well-being" 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).
- Having taken legal opinion, WWF believes that WP para 2.11 and 2.12 of the white paper, are simply using 'wellbeing' as an imprecise and unclear shorthand for the matters that would fall for assessment under the concept of sustainable development in any event. The White paper seems to be using the concept of "well-being" as a way of repackaging the same analytical framework that applies pursuant to the concept of "sustainable development". But what does this achieve, other than adding an unnecessary layer of complication to the legislation?
- Whilst, as previously stated WWF is content with the use of wellbeing in public communications, we do not believe it adds to the concepts and definition of SD, as used in Brundtland and reiterate our view that it has no place in this Bill.

4.1 WWF welcomes the focus in WP para 2.19 on delivery. It is good to see the WG responding to concerns expressed in the first consultation around the need to ensure the Bill delivers on objectives or outcomes and is not just 'behaviours' or process driven. Therefore it is disappointing to see in

¹⁰ Environmental law association response to last SD bill consultation

2.21 that the legislation will not dictate outcomes. Then in para 2.22 that indicators are again important but will not be imposed. WWF is very concerned at this approach.

4.2 WWF would contend that a bare minimum must be that outcomes and indicators must be consistent with the achievement of a sustainable Wales and with SD principles. It will be important that the appropriateness and sufficiency of the outcomes and indicators is monitored and evaluated. We suggest this is a role for the SD commissioner, perhaps initially, with support from Auditor general. This is particularly in relation to WG itself.

4.3 However, if WG were to include a requirement to produce a strategy or scheme for SD, then it could be made clear that this must include clarity on outcomes and indicators and it could be required to comply with certain principles, such as the precautionary principle.

5.1 WWF would refer WG again to the Auditor General's report (para 2.49) which suggests that future government performance management must be focussed on results but that SD also requires attention is paid to *how* the results are achieved. It is clear that there is a need for a radical change in performance management, much more integrated reporting is required. This all suggest to WWF that there must be some requirement in the legislation on what is required in terms of outcomes and their measurement and reporting.

6. Climate change targets

6.1 Further to the necessity to legislate for some outcomes, WWF was very interested in the recommendations from the Committee on Climate change and the Climate change Commission, that the SD bill could be used as a mechanism to set targets for the reduction in greenhouse gas emissions in/from Wales. This would provide consistency with the approaches in the Scottish and UK Climate Change Acts. The Committee also suggested that, if statutory targets are set, then an accompanying duty on Welsh Ministers to develop policies to meet the targets should underpin them.

6.2 The Climate Change Commission endorsed the recommendations from the UK committee and recommended that Government consider these in its next progress report.

6.3 WWF supports the Committee's recommendations to ensure clarity for public bodies on how they are required to contribute to emission reduction targets and adaptation objectives. We agree with their view that it is difficult to see how an SD duty could be met without demonstrating how emission reduction and adaptation objectives will be met.

7. Repeal of section 79

7.1 Whilst WWF can appreciate there may be a necessity to amend or repeal this section of GOWA2006, we would be extremely concerned if this was done without first strengthening the duty within it, through an SD Bill.

7.2 There are 3 areas of concern:

- It seems that WG would be replacing a duty to promote SD with a requirement only to 'consider' SD in its strategic decision making processes.
- WG would remove the requirement to produce a scheme to promote SD

- Such repeal would remove the requirement for reporting annually and an independent review of the effectiveness of the scheme i.e. progress by Government on SD.

7.3 WWF believes that equally powerful requirements would have to be maintained in the SD bill if this were the case. Currently it seems it is being proposed that some of these requirements say on review, are being passed to the SD body, in which case WWF would argue that the powers and duties currently proposed for the SD body are not sufficient. (See later question for some detail). In particular, we would be concerned about the replacement of the independent review of effectiveness of government's performance without some strengthening of powers, independence and capacity of the commissioner to carry out this function. At the same time, para 5.8 of the White paper restricts the role of the Auditor general in this regard, in such a way that he could not perform this requirement adequately.

7.4 The Welsh Government also appears to be suggesting that requiring the production of a strategy would be at odds with the aim of embedding sustainable development across all strategic decision-making. It seems to WWF that the main purpose of such a strategy would be to set out how it is proposed to embed the principle in this way and to define indicators against which performance could be checked.

7.5 Accordingly, WWF believes that there must be a duty on the Welsh Ministers to produce a strategy setting out how sustainable development is to be pursued. The same provision could also require the progress made in implementing the strategy to be subject to independent assessment. WWF also considers that section 79 should not be repealed unless there is such a requirement in the SD Bill. As mentioned earlier we also do not see why this obligation should NOT be placed on other public bodies. This would make it much simpler to monitor the transition of organisations into implementing the new duty effectively.

8. Cross border/ global impacts

8.1 WWF is pleased to note that the WG intends to ensure the legislative framework will encompass taking into account global impacts of decision in Wales. (Para 2.15). We are interested to discover updated thinking on this and whether it is intended that such provisions appear within the legislation or will follow within guidance.

8.2 We suggest that a clear definition of SD and its key principles will make this requirement very clear.

Q2 what are your views on the proposals for an independent sustainable Development body?

ROLE AND FUNCTIONS

General issues

1.1 The White paper is not entirely clear on the duties and powers it is suggesting for the Body. These of course should be formulated in respect of the functions, which we refer to later. However, WWF feels more clarity and strength is required in terms of both duties and powers.

1.2 WWF believes that it would be preferable that the Commissioner had some statutory duties as well as some powers. A statutory duty to protect the environment and to safeguard the interests of future generations would be recommended. Currently the Body itself is not even included in the list at para 4.3 of organisations to whom the duty would apply.

1.3 It would be as well to link his/her role specifically to international instruments, as is the case with the other Welsh commissioners. This would be particularly apt as SD is an international concept and explicit recognition that his/her role is specifically linked to global issues and impacts would be logical as well as setting the appropriate framing for the role. His/her powers could be linked to the 1992 Rio Declaration or subsequent international agreements.

1.4 WWF believes there are several roles that the body/ commissioner should provide i.e. Supporting, advising, challenging, monitoring progress of public bodies and on SD, championing the interests of future generations, investigating complaints. We address these individually.

Supporting

1.5 Although WWF are supportive of the SD Body having a key role in supporting public bodies, we do not agree that this is its exclusive purpose. In our view the Body's role as an independent advocate of SD and as a champion of the interests of future generations is equally important. In fulfilling this latter function, the role of challenge, monitoring progress and investigating complaints of non-compliance to the duty are also important. See later paragraphs for further detail.

1.6 As we stated in our previous consultation response, "It is extremely important that there is a champion for future generations who can intervene to ensure their interests are respected. This role must not end up as a commissioner for public services in some form. Its *primary duty* must relate to the interests of people, present and future, and nature and must be a champion for these being addressed sustainably".

1.7 With regard to advising Government, the SD body should be charged with reviewing the Programme for Government (and any SD strategy which exists) and advising on its consistency with the SD Act and goals and identifying any areas which require attention.

1.8 This is in addition to its role on advising on SD indicators.

Challenging

1.9 WWF agrees with the proposal in WP Para 3.6 that “the Body should be able to constructively challenge organisations where appropriate to improve their embedding of sustainable development as their central organising principle.”

1.10 However, WWF believes that this ‘challenge’ function, as currently envisaged, seems rather weak. This function can be strengthened by further consideration of the role of the Body, with the support of other audit bodies in monitoring compliance *and* progress towards SD.

1.11 Again, as we stated in our previous response “*There are 2 separate aspects of reporting. Firstly is monitoring progress towards SD objectives, through reporting on targets etc. These should be included in existing performance management frameworks. Secondly, there should be reporting on progress in embedding SD, in the sense of the culture change process and its success.*”

1.12 WWF believes the body has a role in ‘challenging’ on both these aspects. Please see section 2.1 below for information on monitoring progress on SD Outcomes. For clarity, we will refer to this as progress towards a sustainable Wales.

1.13 In respect of reporting on progress on embedding SD, WWF agrees with the proposal in WP para 3.25 that the body should report annually on the mainstreaming of SD. We however suggest it would facilitate the effectiveness of such a report if the public bodies were required to report on their own progress in complying with the duty.

1.14 Our suggested structure for this takes into account the continuing requirement of section 79 of GOWA Act which requires a scheme, its revision, consultation, reporting etc. (Please note if this is to be repealed or amended then we suggest a similar duty is inserted into this Bill.)

1.15 We suggest this duty is met by requiring Ministers to draw up a SD strategy setting out how they intend to perform their duty to achieve SD. It should also:

- set out the processes that would ensure that the Welsh Government’s policies in relation to sustainable development are coordinated, consistent and coherent, including processes for the resolution of conflicting priorities;
- be presented to the Assembly by the First Minister, as well as the annual reports;
- be monitored and audited, independently, for example by the Commissioner for Sustainable Futures and the Auditor General. The Act could include specific provisions requiring the First Minister to respond to recommendations made by the Commissioner and Auditor General, setting out those recommendations that are accepted and those which are not accepted.

1.16 The SD Act could include provisions about what should be included in the Scheme and this could include objectives, indicators and targets of progress towards a sustainable Wales i.e. outcomes. However, if these are to be included instead in there Programme for Government then please see section 2.1 for the role of the SD body in assessing this.

1.17 Similarly, evidence should be provided by Auditor general and other audit and inspectorate bodies WWF believes the Bill should amend the powers and duties of these other bodies and inspectorates to ensure they are able to do this. This seems particularly important as they are specifically excluded from the list of bodies subject to the duty.

1.18 Furthermore, WWF believes that individuals and civil society groups should be able to make complaints to the Sustainable Development Commissioner in relation to any matter concerning discharge of the Sustainable Development Duty by public authorities. WWF believes that if the SD Body were given powers to investigate and ensure compliance, then Judicial Review would be less attractive as a remedy, as this alternative (and cheaper) mechanism would be available. In any event, WWF do not believe that judicial review should be a serious concern for public bodies in respect of these duties because such applications are unlikely to be successful as in most cases, as *"The more the legislation concerns matters of broad social policy the less ready will be a court to intervene"* (Lord Nicholls in *Wilson v Secretary of State for Trade and Industry* [2004] 1 AC 816 at paragraph 70).

REPORTING ARRANGEMENTS AND REPRESENTATIONS

2.1 Our response in this section needs to be read in conjunction with our answers to Question 4 on the accountability framework. Reporting needs to be considered in the context of improving accountability and scrutiny as well as enabling learning and improvement by the delivery organisations. The SD body clearly has a role in this scrutiny in order to advise bodies on improvement and to challenge under-performance or where they feel that SD and specifically the interests of future generations are being jeopardised. This section therefore deals with accountability and reporting for the individual bodies as well as the SD body.

Improving accountability

2.2 In our report¹¹, following the Alan Netherwood research cited earlier, WWF made some key recommendations to improve the tracking of progress towards sustainability.

2.3 We recommended that to achieve the One Planet nation goal. We were clear that individuals needed to be made *more* accountable and that appraisal, reporting and scrutiny needed to improve.

2.4 WWF thinks it would be helpful when discussing reporting that it is made clear that reporting is required on two different aspects. Firstly is monitoring progress towards a sustainable Wales, through reporting on progress on objectives, against targets etc. and assessing these outcomes. These should be included in existing performance management frameworks.

2.5 Secondly, there should be reporting on progress in embedding SD, in the sense of the culture change process and its success." This latter would be facilitated if there was a requirement on all bodies, but particularly Government, to produce an SD strategy

2.6 WWF reiterates its previous recommendation to Government that the First Minister reports annually to the Assembly on progress. WWF believes that the First Minister must also hold his Ministers, civil service heads and chief executives of other public bodies accountable for delivery. Therefore we recommend that specific individuals are made accountable for delivery and reporting in each

¹¹ WWF Cymru. 2011. Delivering a one planet Wales. Is the Welsh Government delivering a One Planet, low carbon Wales?. Surrey. WWF

organisation subject to the legislation. It may be that both the First Minister (or leader of a council) and the Permanent secretary or CEO of local authorities are the named persons. This seems particularly good practice which has been followed in other countries' legislation. For example, Malta's SD Act 2012, gives specific responsibilities to Ministers, Permanent secretary and Heads of policy development. Moreover, it specifically makes the competent authority the Office of the Prime Minister. This Bill should impose similar clarity on government and other bodies by setting the competent office or person at the highest level.

Reporting

2.7 It may be necessary here to consider the reporting requirements on and about Welsh Government separately from the rest of the public bodies. We try here to specify the roles and reports of the Government, SD body and public bodies separately.

Welsh Government

2.8 From WP Para 4.9, it appears that the proposal is that there is no specific requirement on government to report on progress towards a sustainable Wales (i.e. outcomes). Although we agree that, once SD is fully embedded the programme for Government *should* be the SD strategy, the Bill must recognise the transition period and make some interim arrangements. We recommend there is a separate report on progress towards a sustainable Wales. Relying on the annual progress report on Programme for government assumes that the Programme already contains all the activities etc. necessary and is a format that will suffice. We would argue this is not the case. Therefore, unless there is a separate report, the Bill should place requirements on the POG annual report to meet the reporting requirements laid out below.

2.9 We also believe that, to meet the requirement laid out Para 3.5 of the need for a 'key leadership role', this role must not rest solely with the new Body. It is vital that the First Minister also has a leadership role. Therefore it must be his responsibility to report progress to the Assembly, with the SD body providing independent review .

2.10 WG must, of course report on its own role in achieving the outcomes of a sustainable Wales. However, WG also has an overall responsibility for reporting on progress towards a sustainable Wales for the whole of Wales and all the public bodies WWF therefore believes that there should be requirements on the First Minister to report to the Assembly on this, in particular formats and regularity.

2.11 WWF recommends that The Welsh Government's annual report should comment on the *cumulative* impact of initiatives, and the scale of the intervention that is still required to meet the goal of a sustainable Wales. It should in doing so be required to respond to the report from the SD Body on progress. Therefore the First Minister should be required to lay before the Assembly a response to the points raised by each report of the SD Body on progress.

2.12 Of course Welsh Ministers are responsible for making decisions (both on the long term outcomes which represent sustainable Wales and the policies needed to ensure that Wales achieves them), but must do so taking proper account of the Body's advice.

SD Body

2.13 WWF is fully supportive of the proposal in WP Para 3.26 that the body should provide an independent view of progress being made in Wales on SD. However we believe that this should be more frequent than 5 yearly. It is not clear if this is intended to be the same or additional to the suggestion in WP Para 3.6 on the production of a report on behalf of future generations. We believe there should be at least annual reports on progress. There may also be merit in a more thorough reappraisal of progress both on outcomes and in embedding SD, at a less frequent interval. We would agree that this should be not less than 5 yearly.

2.14 These reports should take a view on whether the outcomes planned by the public bodies, when taken collectively will be sufficient cumulatively to meet the desired outcomes for a sustainable Wales. There should then be some mechanism whereby these can be challenged with the bodies concerned. This may best be a role for government unless the SD body is given sufficient powers and the bodies are required to respond to any advice from the body.

2.15 WWF also recommends that “This may require development of accounting methods and modelling likely *future* impacts of policy and programmes. It is not sufficient to do this only for individual policies but it is necessary to assess the likely *cumulative impact of all activity and expenditure*.”

2.16 Malta provides another useful lesson for us. There is a requirement to develop a set of SD indicators, and use them to “*identify trends which may significantly give rise to unsustainable development outcomes and which will not be reversed on the basis of current or planned action, and recommend action to reverse such trends*.” This seems to offer a clear method of ensuring that the legislation produces an iterative approach aimed at improvement in performance towards outcomes.

2.17 It can be specifically the role of the SD body to identify these trends and advise the public sector. However, as the work of the SD body will be retrospective, there must also be requirement on all bodies to conduct effective appraisal of the likely impact of the policies and programmes which they are developing. (See section 2.22)

2.18 We suggest this is framed in a similar way to the legislation framing the work of the Committee on Climate Change, which states:

“It is the duty of the Committee to lay before Parliament and each of the devolved legislatures each year, beginning with the year 2009, a report setting out the Committee’s views on—

(a) The progress that has been made towards meeting the carbon budgets that have been set under Part 1 and the target in section 1 (the target for 2050),

(b) The further progress that is needed to meet those budgets and that target, and

(c) Whether those budgets and that target are likely to be met.

(2) The Committee’s report in the second year after the end of a budgetary period must also set out the Committee’s general views on—

(A) The way in which the budget for the period was or was not met, and

(b) Action taken during the period to reduce net UK emissions of targeted greenhouse gases”

If one substitutes SD outcomes for carbon budgets and greenhouse gases then the formulation seems sound.

Public bodies

2.19 It will be necessary to reform existing performance measurement frameworks to ensure effective reporting against the new duty. This is not an area of expertise for WWF and we trust the Stakeholder reference group can make some suitable recommendations. However, we would reiterate here that there are two separate reporting requirements. Firstly on outcomes and secondly on the success of the plan to embed SD. As stated in item 2, it would facilitate the monitoring if there were a clear SD strategy, implementation plan or transition plan to scrutinise against.

Scrutiny

2.20 WWF believes that if SD is to be truly mainstreamed then it is essential that the quality of scrutiny is improved. In previous reports we have recommended that "The annual report on the Sustainable Development scheme should provide more substantive detail of progress and be afforded a higher level of scrutiny by the Assembly. Better public scrutiny will be provided if the Wales Audit Office provides an independent audit of progress against the Scheme and the Committee on Climate Change is commissioned to provide a more detailed and published scrutiny on emissions reductions. Each Minister should be responsible for assessing the impact of his or her Portfolio, against these goals."

2.21 As SD becomes mainstream then all Assembly committees will have to ensure that progress on embedding SD *and* progress towards a sustainable Wales are a core part of their scrutiny.

Appraisal during policy and programme development

2.22 There is also a need to ensure that decision making processes particularly around policy and programme development and financial planning incorporate appropriate appraisal of the likely impacts on social, environmental and economic factors *before* activities are implemented. Reporting after the event is insufficient to drive real change. So for example, WWF have previously recommended that "*The Welsh Government should ensure it assesses footprint reduction and carbon abatement of all proposed Strategies and policies prior to their implementation, as part of the decision making process.*"

2.23 Furthermore there should be a requirement to attempt to avoid or mitigate any significantly harmful effects and if this is not possible then a clear justification must be made for this choice. If this information is not made transparent then citizens and others cannot hold the bodies to account.

COLLABORATION

3.1 The collaboration of audit and inspectorate bodies in Wales has been mentioned already as critical to effective monitoring of progress.

3.2 Additionally it is crucial that the Body has access to appropriate evidence to guide its reporting. We therefore recommend that other bodies such as Natural resources Wales should be included. The Bill could make provision that the body "*may, when exercising its functions, consult other public bodies, including, but not limited to, the following...*". Organisations which are likely to be of particular assistance to the body, could then be listed.

3.3 There is a particular issue regarding the Committee on Climate Change in the UK. This currently provides data and advice to Welsh government on progress against UK carbon budgets . It would be useful to specify its role in regard to the Body, as it currently sits on the Climate change commission for Wales.

3.4 It seems important that the legislation governing audit and inspectorate bodies, as well as Commissioners is reviewed for its consistency to the SD duty. It is not clear why it is not appropriate for the duty to extend to them as public bodies. However, if it does not then we need to ensure in some way that they are required to have due regard to the SD principles. This will facilitate collaboration.

RELATIONSHIP TO OTHER COMMISSIONERS

4.1 As mentioned previously, there should be an obligation on Commissioners and the new SD body to consult with one another.

4.2 However, WWF has concerns about the proposal in WP para 3.31 that the Commissioners should be ex-officio, voting members of the new body. Given that the body should be representative / knowledgeable of the interdisciplinary nature of SD, WWF would be concerned that, as all these commissioners could be said to be related to social aspects of SD, that the balance of the body would be skewed.

4.3 Given that the body will have to consider its structure when it is formed, including the future of the Climate change commission, perhaps such sub committees looking at particular issues is one way forward.

SUMMARY OF POWERS AND FUNCTIONS OF SD BODY

3.1 WWF believes that Body must be suitably empowered to deliver on this agenda.

3.2 WWF believes that in support of its functions the Body should have powers to :

- Make representations
- request information from any of the public bodies on any topic which could have a bearing on SD,
- investigate complaints
- a requirement to publish its advice and responses
- advise on SD indicators
- promote SD
- direct the focus of public bodies to safeguard future generations
- undertake other such activities it considers necessary in order to discharge its duties

3.3 Obligations should be placed on public bodies to have regard to the advice of the Body in the exercise of their functions, a requirement for them to give reasons as to why they do not wish to adopt recommendations of the body.

3.4 WWF, with other members of an Alliance of third sector organisations, representing a broad range of social, cultural, environmental and international development issues, have been working together constructively on alternative formulations for a Bill and drafting some key elements and structure for a Bill which we believe will be effective. These are in Appendix 1 and include suggestions as to the wording of the functions of the Commissioner. These are not necessarily fully comprehensive but are intended as an acceptable approach.

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?

1.1 WP Para 4.8 through to 4.10 do not seem to ensure that SD is the central organising principle of Government. WWF is not entirely clear on the proposal, but it appears that Welsh government is proposing that reporting annually on their programme for Government is sufficient to meet the need for WG to report on progress both on embedding SD and in progress towards a sustainable Wales (as measured by SD indicators). This lack of clarity needs to be addressed in the Bill.

1.2 As WWF suggested in Q2, at the end of the transition phase, post 2015, we would expect that the Programme for Government is the delivery plan for sustainable Wales. However, we believe as part of its independent review of progress that the SD body should review the programme against the duty and advise Government on its effectiveness.

1.3 Separately, WG 's progress to embedding SD in all its actions, particularly decision making could be monitored however, the SD indicators will measure the progress of *Wales* towards sustainability. they thus go beyond the powers to affect such change of any one organisation. However, overall Welsh government must have the responsibility for monitoring the direction of our travel towards sustainability and the speed of that change. The indicators should help in this. however, it is imperative that different organisations develop their own targets and performance measures for their own organisations contribution to the direction and speed of travel towards sustainability. Otherwise, there will be no practical outcome of this legislation.

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

1.1 WWF does not agree with the conclusion in WP Para 5.3 that the SD body should not have a role in scrutiny of the bodies. If, as is suggested, the body should ' challenge' bodies on their performance then that requires assessment of evidence and reporting on its implications, thus being able to advise on changes.

1.2 That is why WWF believes that the collaboration between various audit bodies , inspectorates and other Commissioners is crucial to success. We agree that the small SD body cannot audit individual organisations, nor should it duplicate the functions of other commissioners or inspectorates. However, it is vital that all those other bodies are instructed to ensure they incorporate scrutiny of SD performance in their work. It also seems obvious that the investigations of progress say on safeguarding the Welsh language, should be sent to the Body as part of the evidence of progress towards a sustainable Wales.

1.3 It will be important in the Bill to be clear on the different sorts of accountability which are required, the role of the audit and inspection bodies, the role of the SD body and the role of government.

1.4 One possible model to consider is as follows:

- First Minister or leader of public body and/ or CEO is responsible for delivery of the duty; monitoring progress and reporting on progress.

- SD Body is responsible for independent assessment of performance against outcomes; advising on trends, likely impacts on future generations etc. i.e. progress towards a sustainable Wales
- AGW, other audit bodies, inspectorate and commissioners responsible for scrutiny of performance of individual organisations against delivery of the duty, in their own areas of competence.

1.5 In this light, WWF is concerned that the accountability framework, in contrast to the stated intentions for the Bill to deliver outcomes, in WP para 5.2 suggests the accountability framework is only concerned about ' progress in embedding SD' . WWF would argue that the framework must also be suitable to measure the effectiveness of delivery in making progress towards a sustainable Wales.(see question 2). There will a necessity to reorganise the performance measurement frameworks for all of the public sector to serve both these aims.

1.6 In this regard, WWF has previously recommend that SD outcomes for SD schemes, footprint reduction and carbon abatement should form a mandatory part of the performance management frameworks for Welsh Government, Welsh Government Sponsored Bodies, local government and Welsh Government funded initiatives. Furthermore, delivery of these goals should be part of the performance measures for senior civil servants.

1.7 WWF also recommended that "*The Welsh Government should explore, with the Climate Change Commission for Wales, the potential for a system of national carbon accounting to sit alongside financial reporting systems and form a central part of the Wales performance management framework. This would include an assessment of the effectiveness of the Carbon Reduction Commitment.*"

1.8 WWF therefore does not agree, that all outcomes and indicators should be set by the individual public bodies (see question 1 for further information.)

1.9 Given the necessity to monitor progress in this way, WWF does not agree that AGW 's role, as per WP Para 5.8, should be restricted to the audit of processes. If it is not AGW who monitors the outcomes of their decisions then who will have this function? The SD body? Welsh Government? WWF believes that AGW must be able to monitor the effectiveness of public bodies in regard to this duty.

Q5. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals?

1.1 The culture change required to achieve sustainable development should not be underestimated. Nor should the length of time this will take. Such a major programme requires effective transition planning over many years.. All public bodies will need to lay out programmes for this which will include review of areas of work of work which may inconsistent with, or a barrier to delivery of, SD. Programme of training, review etc. will be required. WWF believes these can moist simply be referred to as SD strategies or strategies for embedding SD. All bodies should be required to produce them.

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 complying with the duty in subsection (1).
2 Meaning of sustainable development
(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: (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.
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 shall provide and publish advice on matters relating to the implementation and enforcement of the Sustainable Development Duty. (2) The Sustainable Development Commissioner for Wales may— (a) conduct research and inquiries into matters which the Commissioner considers relevant to sustainable development or the Sustainable Development Duty; (b) 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) Individuals or civil society bodies may make complaints to the Commissioner in relation to any matter concerning the discharge of the Sustainable Development Duty by public authorities. The findings of the Commissioner shall be made public. (4) The Minister shall 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;

(d) the process for appeals and

(e) 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).



· INSTITUTE · OF · HISTORIC ·
BUILDING · CONSERVATION

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Dear Sirs

A SUSTAINABLE WALES : BETTER CHOICES FOR A BETTER FUTURE

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

Thank you for inviting us to participate in this consultation. Our responses to the consultation questions are as follows:

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 strongly support this but comment as follows:

- We note that there is no definition yet for "sustainable development" and that this will follow on the Bill. At this juncture we wish to press for the conservation of heritage assets and their appropriate adaptation to meet the needs of 21st Century communities to be included in the definition. Recent Welsh Government policy has strongly supported the importance of this and we think it should be followed through with full recognition in the definition of sustainability. We think this general approach is supported by the Consultation document at paragraph 1.10 (and elsewhere – and our emphasis):

*"As well as encompassing economic and environmental wellbeing and the wellbeing of future generations, the definition also reflects the vital importance of social justice, equality and **Wales' rich culture.**"*

- This proposal fits well with recent initiatives by the Welsh Government to give local communities more control over the future of their culture and heritage.
- It is to be regretted, on the other hand, that a recent consultation on the future Heritage Bill for Wales envisages the possibility of more centralized delivery of heritage conservation. In response to that consultation we are commenting that such proposals are contrary to the commendable direction of travel towards local administration and control as envisaged by this Consultation and in other policy documents.
- We note that the proposals are not costed and expect that they be accompanied by the necessary support in both guidance and resources.

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

We support this aspect of the proposals in principle, but would wish to see heritage interests represented on the Advisory body and amongst its support staff.

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 have no objection to the tiered approach, which seems sensible. However, we would like to see Guidance issued that promotes the adoption of the Bill's principles as early as possible and not just in response to the introduction of the duty.

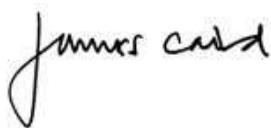
Question 4. What are your views on the proposals to improve the accountability framework for sustainable development in Wales?

We think that proper accountability and reporting is an essential component of the proposals. We think that the duty to report should go further than just a requirement to reference the Act. There should be specific requirements to report the adoption of policy, monitoring of outcomes and the impact of policy on them and specific programmes and projects that are carried out. Nevertheless, using the existing mechanism of Annual Reports is a sound one as it avoids a separate tier of Reporting.

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

We have noted above that there seems to be no reference to resources. Clearly the new body will require proper Government support; but other bodies, on whom the duties will fall, will have costs attached to the implementation of the proposals. In our view it would be unreasonable to suppose that because the proposals are to be embedded in mainstream policy and programmes that there will be no attaching costs. These need to be realistically evaluated and provided for.

Yours faithfully



James Caird
Consultant Consultations Co-ordinator

O'Hanlon, Marion (PPCS - Property Division)

From: Davey, Jack (LGC - Fairer Futures)
Sent: 10 June 2013 13:32
To: 'Joan'
Subject: RE: consultation on Sustainable Development Bill

From: Joan [mailto:joanasby@gmail.com]
Sent: 04 March 2013 17:57
To: SD Bill; Joan
Subject: consultation on Sustainable Development Bill

I should like to congratulate the Welsh Government on the contents of the consultation document.

I am making this submission in this form rather than complete the questionnaire because of my specific concern about a crucial dimension that you do not address in the document - winning the hearts and minds of Welsh people to enlist their engagement in **putting sustainable development at the heart of devolution**.

There is so much in the document to commend it and yet so often the opportunity to involve the people is just missed; the quote from 1987 Brundtland Commission report sets the right tone *"Humanity has the ability to make development sustainable..."*

and in 'One Wales One Planet', the hint is there again *'Sustainable development means enhancing the economic, social and environmental wellbeing of people and communities...'*

and the message to me is clear if you logically think through how and where to begin implementing your own goal;- *'Sustainable development is the process by which we reach the goal of sustainability'*.

By the time we get to para 1.18 it seems that you believe that by setting out a 'duty' framework to stakeholders, supported by a new independent body you have a 'process' that, when implemented, will work and succeed.

The challenge I believe is whether to start the 'process' at the top or the bottom of the governance ladder (if you consider those being governed are at the bottom of it,) or tackle both ends as your own para 1.5 would seem to infer *'.....a fairer society. in which every person is able to make the most of their abilities and contribute to the community in which they live'*

The key question to me in terms of successfully implementing sustainable development in Wales is: **Who are the Stakeholders?**

Surely the answer is **the people of Wales**, and if this is so then the Welsh Government and the statutory bodies, through whom you plan to operate, should be required to fully involve the people?

How can you be sure that involvement will happen if you have not seen fit to include the people in the process you are setting in motion ? If you disagree with me and say they should be involved via the ballot box every few years, then surely this would not help achieve your goal to make Wales more sustainable would it?

In my thirty years experience of working with communities and groups of communities, engaging local people in long term development, I have seen many failed attempts at what I call the "do unto" and not the "work with" approach to integrated local regeneration.(I will not list them here but should you wish I would be happy to provide). The missing link has always been the failure of Government to require and set out a **'process' for local participation** and enshrining it in the legislation. I think it would be a big ask to expect local engagement to happen without this, and furthermore, it would be unfair and unrealistic to expect the new independent body to undertake a task for which there is no legal requirement.

I think there is broad agreement now that integrated development is essential to sustainable

development, so, in conclusion, please note that **integration is as essential at the local level as at the strategic level**. For example, if you examine the potential for creating a sustainable tourism initiative; whilst the environment, heritage, and local products are crucial elements to it, they are not confined to a community council ward, or not necessarily a county council ward or county boundary. Farms, footpaths, rivers and valleys do not lend themselves to being part of bureaucratic areas. In this scenario at the local level there would be an even greater need for partnership between local tourism and business chambers of trade, heritage societies, statutory environmental bodies, the National Trust, CADW, farming interests, and adjacent town and community councils.

Consultation Questions

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?

The City and County of Swansea (CCS) welcomes the opportunity to comment and respond to the White paper. CCS is well-placed to respond to the consultation as the Council has spent the last 18 months investigating the implications of making sustainable development the central organising principle of our business, as part of WLGA Sustainable Development Framework pilot programme supported by the Welsh Government.

Central Organising Principle:

CCS has placed sustainable development principles at the core of its commitments and priorities so is supportive of Welsh Government's position that is essential to good decision making to consider the long term impacts on economic, social and environmental wellbeing, in an integrated way. A strengthening of the governance framework for sustainable development across the *whole* devolved public sector is welcomed as this should facilitate the making of long-term, joined up decisions across different organisations, resulting in sustainable development outcomes for communities in Wales. It is disappointing that elements of the public sector will be excluded from the legislation as a result of their line of control.

In order to respond to the new duty, local government will need to go through a process of significant change. The learning from WLGA pilot suggests that a period of transition will be required to build capacity in the organisation and with staff. We will need to develop and adapt internal systems and challenge external regulatory frameworks that place barriers to long term, integrated thinking. This will place an additional burden on local government in the short to medium term and will require additional resource. Local government faced similar pressures from the implementation of the Local Government Measure (2009) and lessons from this experience should be drawn on.

CCS is supportive of an approach outlined in Chapter 2 that promotes behaviours and objectives and we agree with the key principles outlined.

Defining Sustainable Development

CCS supports the need to define what sustainable development means. Whilst we currently have adopted the Bruntland definition in our sustainable development policy, we would also be happy with a definition that supports an integrated approach to long-term environmental, social and economic wellbeing as outlined by Welsh Government in the 'One Wales; One Planet' document. This would be particularly welcome if it brings some clarity to what the term means and how it is applied in other pieces of legislation and guidance. This is essential to ensure consistency.

Scope of the Duty

CCS agrees that the scope should apply to high-level decision-making processes. However local authorities are large organisations, with effectively a range of smaller departments each working within their own decision-making frameworks and policies, often guided by frameworks and standards set outside of the organisation. There is a significant gap between decision-making at a strategic level and operational day-to-day activity. Linking outcomes with decisions is important but there are many examples of good decisions not resulting in outcomes that were intended.

Thought must be given to the consequences (especially the unintended ones) around imposing a one size fits all duty, particularly on top of existing duties and requirements. We have concerns that the duty could lead to more bureaucracy and more compliance driven activity and will actually detract organisations from focusing on outcomes for citizens. Much of this will depend on the content of subsequent guidance but CCS would like to see a non-prescriptive duty that allows the public sector to develop innovative ways of implementing it.

Welsh Government policy on Waste Management is a good example of this problem where well-intended statutory guidance has resulted in a rigid framework which stifles innovation. Welsh Government has set challenging targets for the percentage of waste that local authorities recycle or compost challenging targets but has also been prescriptive in prescribing the processes for collecting and processing the Waste in a manner that makes it harder for local government to meet such targets or to integrate them with other outcomes for the Council. The prescriptive approach reduces flexibility and makes it difficult for us to innovate.

The WLGA pilot indicates that a less prescriptive approach has potential. By placing sustainable development as the central organising principle in this way, we have been able to demonstrate that we are in a better position to consider more innovative long term solutions to issues around strategy, policy and service development.

While the argument not to make budget setting and procurement decisions subject to the scope of the duty is understandable, there are some potential issues especially in the short to medium term as the duty beds in. Processes such as these have acted as barriers in the past to achieving sustainable outcomes due in part to interpretation of legal and financial risk, especially where conflicts between existing statutory requirements or regulatory frameworks and the new sustainable development duty may appear to exist.

The most significant impact of this legislation will have to be on the current systems and processes that govern the public sector. Our experience demonstrates that these systems are rarely aligned with the principles expressed in the duty and are far from being fit for purpose. As individual organisations, the public sector has varying degrees of influence to change and develop these structures, especially regulatory frameworks.

One of our biggest areas of concern is about the consistency of interpretation and application of the principles of sustainable development contained within the Bill

across Welsh Government in current and future legislation and guidance.

The proposals in the Social Services White Paper 'Sustainable Social Services for Wales' and the New Social Services Bill clearly reflect these tensions. The Social Services White Paper recognised the challenge of the future financial outlook, increasing demand on services and the fundamental changes required to adapt service provision to meet need. However the new Social Services Bill takes a very narrow view of sustainability based on purely on wellbeing, ignoring the tensions brought about by increasing economic pressures, future trends and environmental limits. Based on this definition the new Social Services duties may well support a limited perspective of sustainability, but not sustainable development and not in the future context of increasing demand from an aging population coupled with reduction in financial resource to deliver services as a result of economic austerity.

It proposes a robust process driven framework for assessing and meeting needs of adults and children who need care and support and of their carers to promote well-being. In doing so delivers a regulatory framework that will drive local government to comply as oppose to innovate. This type of regulatory framework does not create the space local government needs to create alternative service models to deliver long term sustainable outcomes. At Swansea we have seen that sustainable development offers an alternative lens through which we can consider these tensions; however requirements of legislation such as the Social Services Bill will undermine and prevent local government from implementing the sustainable development duty as broadly as it is intended.

Reporting and Monitoring

The White Paper states that the function for reporting will be to demonstrate compliance with the duty using existing arrangements. However our work and similar work in the private sector on sustainable development reporting, suggests that the reporting function has the potential to do more than this, supporting change in an organisation to a more sustainable way of working. However to comprehensively report on sustainable development to such standards, it will not be as simple as layering the duty on current reporting systems. Even taking a compliance approach to sustainability reporting will need an input of additional resources.

We have invested a significant amount of resource in developing our second sustainability report in Swansea (City and County of Swansea Sustainability Report 2011/12). From this piece of work we have learnt a number of valuable lessons about sustainability reporting, the potential of sustainable reporting to bring about change and the systemic issues that will impede the development of effective sustainability reporting in the Welsh public sector.

There are a range of different reporting frameworks within the public sector that all work with different processes and to different timescales. In addition, there is no common reporting framework that cuts across different public sector organisations. Traditionally these frameworks consider value for money and efficiency as it is harder to measure effectiveness. Most of the data sets collected focus primarily on process and not on outcomes. Where outcomes are measured they often do not

measure what really matters, only data that is easier to collect. These issues limit the capacity of reporting on sustainable development to effect change on the core business objectives of an organisation in a sustainable way.

In addition to these reporting systems, there are a range of different methodologies for reporting specifically on sustainable development, which are not yet reflected in the current processes used by local government. Unfortunately, due in part to ease of collecting data, many of these systems tend to reflect environmental metrics not social and economic ones, for example the Treasury's Financial Reporting Manual (FReM) framework, which Welsh Government and the NHS currently have to administer. These reporting frameworks skew the narrative of sustainable development to one of environmental wellbeing and do not highlight the interconnectedness that is the basis of sustainable development.

Additional evidence should not be necessary if appropriate outcome measures are in place, but these measures will take time to develop. However identifying a range of outcomes that demonstrate integrated decisions and long-term thinking has always been complicated. CCS is already in the process of trying to achieve an outcomes based approach using results based accounting processes in our Corporate Improvement Plan. Welsh Government could help support this by developing an outcomes-based national Performance and Improvement Framework, based upon the sustainable outcomes outlined in the Bill, to bring balance to the current performance framework.

Single Integrated Planning

In principle CCS is supportive of legislating for single integrated planning as part of the duty if it makes the legislative process simpler.

Welsh Government Sustainable Development Duty

It is helpful that Welsh Government will also be subject to the same duty as we hope that this will lead to consistency across Welsh Government policies and programmes. In Swansea we have experienced times when the broad nature of sustainable development is not consistently understood or applied across different departments of Welsh Government. The problems we are facing in Swansea due to over proliferation of HMO accommodation in some areas of the City, the impact that has on community cohesion and sustainability, the lack of a statutory framework to control HMOs under a particular size, is an example of this.

Question 2 (Chapter 3)

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

The suggested role of the body seems appropriate, however we see that the demands from across the public sector on such a body in the short-term will be significant and have concerns that it will not be able to meet these requests. This is in part tied into the phasing of the Bill.

The level of support required by local government through this change process

should not be underestimated and will need to extend beyond that offered by the new sustainable development body. Other organisations that support the work of the public sector, such as the WLGA, regulatory bodies and PSMW, will need to be in a position to offer appropriate support to local government organisations managing this change of approach and, whilst not directly affected by the legislation, will need to be prepared to offer support as soon as possible after the Bill is enacted.

In the long-term, if the Bill has been successful, the need for such a body in its initial form may become obsolete. The Bill should recognise this and allow for the body to change and adapt according to these needs.

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?

CCS support this approach, however we have concerns that the Body will not have sufficient time to develop its role fully before the implementation of Phase two of the Bill, when the majority of the Welsh public sector will be affected. CCS would be happy to work with the Welsh Government and the Wales Audit Office to help trial new processes and procedures in advance of the implementation date for local government.

Question 4 (Chapter 5)

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

Lessons from the implementation and regulation of the 2009 Measure have yet to be fully learnt. There needs to be more to this than the application of the big stick and compliance. It will be more useful and productive if implementation of the Bill can be done in a sensitive, supportive, creative and meaningful way that encourages innovation with a focus on the customer or service user, especially in the short to medium term.

It is also unclear about the role of other inspectorate regimes and how they will support the sustainable development principles contained in the Bill.

Question 5

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

March 2013

A Sustainable Wales

Friends of the Earth Cymru's response to

**The Welsh Government White Paper
'Consultation on proposals for a
Sustainable Development Bill'**

Summary

The White Paper is a step forward from the first proposals and provide more clarity as to the Welsh Government's thinking in relation to Sustainable Development. However we do not feel that the direction of travel is sufficient to deliver the step-change required to set ourselves on course for a sustainable future.

We propose that the Welsh Government publish a Bill which is transparent about its aims, clear about its definition of Sustainable Development, applies to public authority functions, creates a Sustainable Development Commissioner for Wales, and monitors on key resource use indicators.

In this response we propose key clauses of a Sustainable Development Bill as an illustration to begin a dialogue with civil society and decision-makers in Wales of what could be achieved by simple and clear legislation.



**cyfeillion
y ddaear
cymru
friends of
the earth
cymru**

Introduction

Friends of the Earth Cymru welcomes the Welsh Government White Paper proposals for a Sustainable Development Bill and the Welsh Government's commitment in its Programme for Government to legislate for a sustainable future for Wales. We support the intention of setting a framework for Wales "To become a 'one planet nation', putting sustainable development at the heart of government"¹ and hope that the Sustainable Development Bill when published will reflect this aim and produce a clear and decisive way forward.

Progress has been made since the first consultation: the White Paper recognises the importance of a definition of Sustainable Development, an emphasis on an outcome related duty and recognition that we need to take responsibility for our international impacts.

However we are concerned that the White Paper proposals remain unclear and will not achieve these aims, and urge the government to work with stakeholders and partners to achieve effective and clear legislation that reflects the ambition of the people of Wales and the sense of urgency necessary.

International context

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

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

*"The human pressure on the Earth System has reached a scale where abrupt global environmental change can no longer be excluded. To continue to live and operate safely, humanity has to stay away from critical 'hard-wired' thresholds in the Earth's environment, and respect the nature of the planet's climatic, geophysical, atmospheric and ecological processes."*²

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

*"Research now demonstrates that the continued functioning of the Earth system as it has supported the well-being of human civilization in recent centuries is at risk."*³

"Energy-related CO2 emissions are at historic highs; under current policies we estimate energy use and CO2 emissions will increase by a third by 2020, and almost double by 2050. This would probably send

¹ Welsh Government (2011), 'Programme for Government' p.42

² <http://www.stockholmresilience.org/research/researchnews/tippingtowardstheunknown.5.7cf9c5aa121e17bab42800021543.html>

³ http://www.planetunderpressure2012.net/pdf/State_of_the_Planet_Declaration.pdf

*global temperatures at least 6°C higher within this century.*⁴

The Doha Summit in December 2012 made little progress on a routemap towards a low carbon future and to avoid a planetary emergency.

And as we confront these massive environmental problems, we face societal problems that need not exist in the 21st century: some 1 billion people lack access to nutritious food; 2.7 billion lack access to clean cooking facilities, and breathe in smoke which damages their lungs as they cook; 2.6 billion lack access to basic sanitation⁸; 793 million adults – two thirds of whom are women – are illiterate⁵; and 1.4 billion people live on less than US\$1.25 a day⁶.

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

“The biggest source of planetary-boundary stress today is excessive resource consumption by roughly the wealthiest 10 per cent of the world’s population, and the production patterns of the companies producing the goods and services that they buy.”⁷

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

The European Commission last week launched a new Communication in response to the double challenges of eradicating poverty and ensuring a sustainable development, as part of the Rio+20 process of stepping up action on key sustainability challenges and working towards Sustainable Development Goals (SDGs).⁸ This shows that the Welsh Government is operating in an international context of SD and should be proud of leading the way and being part of this process.

Friends of the Earth suggests that returning SD to the heart of national and international politics is the only way to recover from the triple-headed crisis we face. Real sustainability would see our economy delivering social justice within environmental limits. The world has been gripped by a focus on short-term economic growth for too long. The current crisis demands a longer-term lens and an ambitious and urgent approach.

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

⁴ http://www.iea.org/press/pressdetail.asp?PRESS_REL_ID=436

⁵ http://www.un.org/gsp/sites/default/files/attachments/GSP_Report_web_final.pdf

⁶ <http://www.worldbank.org/en/news/2008/09/16/new-data-show-14-billion-live-less-us125-day-progress-against-poverty-remains-strong>

⁷ <http://www.oxfam.org/sites/www.oxfam.org/files/dp-a-safe-and-just-space-for-humanity-130212-en.pdf>

⁸ European Commission (2013), ‘A Decent Life for All: Ending Poverty and Giving the World a Sustainable Future’ http://ec.europa.eu/europeaid/documents/2013-02-22_communication_a_decent_life_for_all_post_2015_en.pdf

Welsh context

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

From the first Act establishing the Assembly, Wales has had a duty to promote SD enshrined in law. One of the few countries across the world to have such a duty, this has been a source of great pride and sustainable development is, as Jonathan Porritt wrote, “in the Welsh Assembly’s DNA”⁹.

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

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

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

*“It is clear that smaller countries, like Wales, can show a lead and set examples in how to create sustainable places and practises. In Wales, we now have the opportunity to further demonstrate this by creating our own ground breaking legislation on Sustainable Development.”*¹⁰

The 2009 “One Wales: One Planet” SD scheme was pioneering, recognising that we currently use resources as if there were three planets, rather than our fair share of one planet.

And now that we have legislative powers in Wales we can move beyond a scheme or plan and develop both a legal definition of sustainable development and a system of governance to implement it.. The very nature of SD requires long term thinking and is particularly suitable for legislation; to give stability and certainty for bodies to adapt and create a different culture, and to avoid the political whim of governments - as was seen when the UK coalition government abolished the UK Sustainable Development Commission.

Two assessments have clearly demonstrated that the existing duty has failed to translate into consistent action on the ground in Wales and that legislation is needed to embed sustainable development in decision making¹¹.

The monitoring of sustainable development indicators shows that there has been no positive news in several key areas such as greenhouse gas emissions reduction, mobility, ecological impacts (and

⁹ http://www.guardian.co.uk/environment/blog/2012/jul/11/wales-sustainable-development?CMP=twf_fd

¹⁰ Written Statement by the Welsh Government, ‘Visit to Rio+20’, 29 June 2012

¹¹ http://www.wao.gov.uk/assets/englishdocuments/Sustainable_Development_english.pdf
http://assets.wwf.org.uk/downloads/main_report_progress_in_embedding_the_one_planet_aspiration_in_welsh_government.pdf

particularly the loss of biodiversity), urban air quality, chemical river quality, health inequality, access to local shops and services, worklessness, active community participation and the Welsh language (Sustainable Development Indicators for Wales, 2012, Statistics for Wales). This shows how much more needs to be done, and how there is a real need for change in the way our public authorities in Wales deliver their functions. Many of the issues listed such as greenhouse gas emissions are impacted by different areas of decision-making e.g. in planning terms the consenting of development or modification of existing development, or the consenting of energy generation, but also in Government schemes to retrofit existing housing stock. Many of the issues are also interrelated and integrated and public services should therefore have a common aim – that of delivering sustainable development. It is indisputably unsustainable to continue with business as usual given the evidence of environmental unsustainability.

In a survey of public perceptions of climate change in Wales published today by the Climate Change Consortium of Wales¹², 84% of respondents were concerned about climate change¹³, 73% of respondents agreed that Wales should aim to set an example to the outside world when it comes to addressing climate change¹⁴, 80% were concerned about the effects of climate change in developing countries and 90% were concerned about the effects on wildlife and the natural world¹⁵. A clear majority of respondents also said they would be willing to vote for politicians committed to climate change.

This is a strong indication that the public in Wales is not only concerned about climate change but believe that politicians should take urgent action to tackle climate change and our impact on global resources, the ecosystem and developing countries. The definition of sustainable development in this Bill must fully reflect these views.

We are part of an Alliance of third sector organisations representing a broad range of social, cultural, environmental and international development issues that has been supporting the development of a draft Bill which we believe can achieve the ambition. We will continue working on alternative formulations for a Bill and have started drafting some key elements and structure for a Bill which we believe will be effective. The full text of these clauses is included in Annex 1 of this submission but remain open for further dialogue with civil society.

¹² 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.

¹³ Ibid, Appendix A, p.57.

¹⁴ Ibid, p.59

¹⁵ Ibid, p.60

Consultation questions

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?

Duty wording and how it could work

The duty must be based upon tried and tested effective legislation for public authorities. Legislation that only requires a strategy will not be effective in changing the way public authorities carry out their public functions. The point of the Bill must be to improve the decision-making of public authorities, in recognition that business as usual will not deliver sustainable development.

Why a duty must apply to public authority functions

It will only scratch the surface of what is possible if a public authority institutes an internal management process around sustainable development. What it needs to do is ensure that its actions *achieve* sustainable development outcomes, by applying a set of principles which change the outcomes. For instance a health authority could change its energy supplies (to a renewable source), implement a mobility plan and facilities to reduce the use of the private car; procure goods and services with both social and environmental benefits so as to ensure that all its packaging is recyclable, and that its use of drugs is sustainable in the long-term, that healthy living is a norm in hospitals (local and fresh food, access to natural light and space, outdoor, exercise facilities). Public authority definitions must also cover those services that have been contracted out to private companies, but which are not private functions. This is intended to pick up organisations such as private bodies providing public services, eg: companies which operate nursing homes, companies operating recycling contracts.

In the Bill we propose that the first clause is a '**Duty to achieve sustainable development**'. This would set out that public authorities should act in such a way as to achieve sustainable development. The duty must apply to public authority functions so as to capture the way a public authority delivers its services (e.g. planning, waste, education, health), and its procurement activities. This would make a real difference to business as usual.

This wording has been developed with a range of organisations and stakeholders in the third sector Alliance.

Level of duty

The assumption in the White Paper is that high level decisions and principles trickle down from strategic level to operational decisions and therefore there is no need for issues such as budget and procurement decisions to be included in the duty. However, despite Sustainable Development being the central organising principle of the Welsh Government, and a duty since its inception, the Wales Audit Office assesses that it has not been integrated into financial and business planning.

“Sustainable development principles have not been consistently embedded in the Assembly Government’s strategic and operational decision making. The Government of Wales Act 2006 commits the Assembly Government to ensuring that all its funding works for sustainable development. However, sustainable development is not driving resource allocation nor is it integrated into all financial and business planning

*processes. The Assembly Government has not ensured that all its grant giving underpins its vision of a sustainable future.*¹⁶

This demonstrates that having a sustainable development duty at a high level of decision making does not necessarily affect resource allocation and lead to sustainable outcomes.

To address this failure, the Wales Audit Office recommended to *“Embed sustainable development in the Assembly Government’s governance procedures, financial planning, core business planning processes, change programmes and human resources processes.”*¹⁷ Currently, the proposals only target strategic decisions, and not operational decisions. The Wales Audit Office’s recommendation should be considered in preparation of the public sector duty in the SD Bill, and the duty should apply to operational activities including financial and core business planning as well as high level decision making.

It is likely that good-practice procurement policy will remain inconsistent across the Welsh public sector without it being a legal requirement, as two reports prepared for Value Wales have emphasised¹⁸.

International scope

We welcome the commitment in the White Paper to ensure that the international scope is encompassed.

However, looking to ensure that the international scope is encompassed in a ‘reasonable and appropriate manner’ is not good enough and open to wide interpretation. Failure to embed international scope within the Sustainable Development Bill dilutes the meaning and potential of sustainable development as a driving force for positive change and does not provide clear leadership for the rest of the public sector. Friends of the Earth Cymru suggests that global impacts should always be considered and only disregarded if there is an unreasonable and disproportionate impact on Wales by doing so.

A legal definition

A definition of sustainable development needs to be on the face of the Bill in order to provide clarity, longevity, certainty and to reduce litigation concerns.

Without a definition on the Bill, the policy could be subject to political changes, resulting in uncertainty in the direction of travel for all sectors. It also reduces the risk of multiple, conflicting and confusing definitions.

Having a definition set out on the face of the bill will insulate public authority action on sustainable development from challenge and dispute, both because the definition builds upon European and international law, and because it lends status and protection to a particular course of action that is framed by the definition.

Why the definition is ‘long-term’ and requires legal clarity

¹⁶ Welsh Audit Office (WAO), (2010), ‘Sustainable development and business decision making in the Welsh Assembly Government’, page 11.

¹⁷ WAO (2010), page 13

¹⁸ Welsh Government, Value Wales (March 2009), ‘Barriers to Procurement Opportunity Research’, <http://wales.gov.uk/docs/dpsp/publications/valuewales/barrierstoprourementopportunity/090520barrierstoprourement2en.pdf> and John F McClelland CBE, for Welsh Government, Value Wales (August 2012), ‘Maximising the Impact of Welsh Procurement Policy’, <http://wales.gov.uk/docs/dpsp/publications/valuewales/120917mcclellandreviewfullfinal.pdf>

The Rio Declaration was 20 years old last year, and yet as a country, Wales has failed to implement many of its principles properly (the principles are attached in Annex 2 to this response) particularly 'polluter pays' and the 'precautionary principle', as well as recognition of environmental limits. The Declaration still resonates despite its age. It is a sobering thought that over these years, and despite stated commitments to sustainable development, there has been little real term progress – biodiversity and the natural environment are still degrading at an alarming rate, and consumption and production continues at unsustainable levels.

It would be a mistake to attempt a 'flexible' definition of sustainable development or not to define it clearly on the face of the Bill. The fact of the matter is that 'environmental limits' are there, whether companies and politicians recognise that or not. The intelligent and conscientious recognise that these limits mean something in relation to the way we deliver public services, the way we live, our consumption and production. If the Welsh Government is to be seen as a global leader in terms of Sustainable Development then it must put on the face of the Bill a definition of sustainable development that is not merely a single sentence reference to the Brundtland report¹⁹ but a proper explanation of the principles that therefore apply in decision-making.

Friends of the Earth, working with a wide range of interests and through discussion and debate, including the input of eminent legal experts from across the UK into the wording suggest the following definition and principles:

(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:

- (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) using only Wales' fair share of the earth's resources;*
- (i) sustaining and promoting Welsh language and heritage.*

The listing of the principles confers clarity, agreement, and transparency to the exercise of public functions by public authorities. These are, in effect, the things that need to be applied to make the outcome sustainable. These principles are there to make changes to the way things are done.

¹⁹ UN (1987), 'Our Common Future' <http://www.un-documents.net/wced-ocf.htm>

All the proposed principles derive from existing Acts or policy. 'Environmental limits' is a well-known but poorly applied and understood policy concept, which is in Planning Policy Wales (as are many of the other principles). There is a clear need to understand more about 'limits' and planetary boundaries, and the healthy functioning of ecosystems in Wales. A recent report by the Royal Commission on Environmental Pollution (RCEP) highlights some of the difficulties, favouring the term 'environmental constraints' instead;

*"4.40 The Commission has used the language of environmental constraints as opposed to the now more widely used language of environmental limits. This is because the language of limits suggests something which is fixed and absolute, whereas the Commission believes that an assessment of how much environmental damage a group or society is prepared to accept is often a matter of political judgement. This is not to suggest that science, economics and law cannot assist in exercising this judgement, but merely that they cannot be relied upon to provide unequivocal 'right answers'."*²⁰

And the Parliamentary Office for Science and Technology said in its March 2011 report on 'Environmental Limits';

*"An environmental limit is usually interpreted as the point or range of conditions beyond which there is a significant risk of thresholds being exceeded and unacceptable changes occurring."*²¹

This understanding also implies consideration of social and economic impacts.

The use of natural resources 'prudently' is from the New Zealand Resources Management Act. The precautionary principle is set out in the EU Water Framework Directive and should be clearly recognised in Wales. *"Thousands of lives could have been saved and extensive damage to ecosystems avoided if the "precautionary principle" had been applied on the basis of early warnings"*, is the conclusion of the authors of the 2013 Late Lessons from Early warnings report published by the European Environment Agency.

Legally, it is perfectly normal to set out the definition of a term. The Equality Act 2010 is an example of this. In fact, the **failure** to set out a definition is more problematic. For instance in planning, the failure to set out the definition of sustainable development in relation to the Planning and Compulsory Purchase Act 2004 has led to continuing arguments over the application of sustainable development principles. An unclear policy framework such as the National Planning Policy Framework 2012 in England has led to a series of trade-offs, where viability of the development (whether a developer is making sufficient profit) is being prioritised ahead of climate change policies and regeneration in local plans. The case in the Supreme Court in *Tesco Stores v Dundee* demonstrate the need to be clear in planning policy (the case hinged on the interpretation of the word 'suitable'). Land-use planning is a fertile source for examples of how unclear policy affects outcomes. The Welsh Government could not promote such trade-off outcomes and call itself a world leader in Sustainable Development.

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

We strongly 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.

²⁰ RCEP (2011). Twenty-ninth Report, Demographic Change and the Environment <http://www.rcep.org.uk/reports/index.htm>

²¹ http://www.parliament.uk/documents/post/POSTLongReport_370-Environmental-Limits.pdf

The Commissioner should be independent of the Welsh Government and able to hold the Government and public sector in Wales to account. The level of independence of the Commissioner is currently unclear in the White Paper proposals and should be clarified. We believe that the Commissioner should be appointed by the National Assembly for Wales.

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

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

The Commissioner should be both empowered and required to investigate and take action on failures by government and public bodies both to comply with the provisions of the Bill, and more widely.

The body should also be enabled by the legislation to;

- provide and publish advice on matters relating to the implementation and enforcement of the Sustainable Development Duty;
- conduct research and inquiries into matters which the Commissioner considers relevant to sustainable development or the Sustainable Development Duty;
- make recommendations to public bodies, including Ministers and the National Assembly for Wales in respect of the discharge of their duties under this Act;

Eligible persons, as defined by regulation, should be able to make complaints to the Commissioner in relation to any matter concerning discharge of the Sustainable Development Duty by public authorities.

The Commissioner must be adequately resourced, with a staff able to support a significant programme of work including research, policy development, support for the wider public sector in developing effective sustainable development schemes and investigative capacity to hold the public sector to account.

There is insufficient information in the White Paper on the status, role or composition of the advisory panel²² and how it relates to the Commissioner or staff of the body. Whilst drawing on a wide range of expertise and public engagement is desirable this should not replace sufficient staffing.

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?

If a phased approach for elements of the duty and/or the bodies subject to the duty is introduced, there must be a clear timetable and statutory deadlines for implementation stages, with responsibility falling to the Commissioner or Minister to ensure compliance and follow up.

²² Welsh Government (2012), 'White Paper: A Sustainable Wales – Better Choices for a Better Future', p.15-16

We recognise that there must be sufficient training and capacity building so that staff in the public sector e.g. financial managers and operational staff, as well as senior management, can work to get the best sustainable development outcome.

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

The Rio+20 outcome document ‘The Future We Want’ stated that;

“the [SD] framework should be inclusive, transparent and effective and that it should find common solutions related to global challenges to sustainable development.”²³

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 Governments proposed institutional framework. Transparency and ease of monitoring are key aspects of the Rio+20 proposed framework for best practice in sustainable development.

A report by the IHPC consultancy for Defra and the UK SDC also concluded that the mechanisms to scrutinise the delivery of any sustainable development duty are critical to determining how seriously bodies took their responsibilities.²⁴

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.

The proposals for accountability in Chapter 5 of the White Paper are not adequate to ensure the delivery of sustainable development. There is logic in requiring the Auditor General for 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 complying with the principles of sustainable development or measure whether sustainable development is being delivered.

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 short-comings. Public bodies should be required to provide information as directed by the Commissioner.

To facilitate monitoring and review there should be an annual report on the use of resources in Wales, addressing the use of land, materials, water and climate.

²³ UN (2012), ‘The Future We Want’, <http://sustainabledevelopment.un.org/futurewewant.html>

²⁴ IHPC (2006), ‘Review of Statutory Sustainable Development Duties’

Q5 – Any related issues, and Conclusion

We attach in Annex 1 some wording of a Bill that the third sector Alliance of organisations has been working on developing and which Friends of the Earth Cymru fully supports. We hope that this Welsh Government will consider this annex in drafting the Bill.

We believe that the Welsh Government has the boldness and political will to meet its commitment in its Programme for Government and set ground-breaking sustainable development legislation that can set us on a course to a sustainable future. This Bill could and should be an example of how to take forward the Rio+20 declaration, feeding into the global process, and setting a precedent for how to move towards achieving SD.

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

“The world is set on an unsustainable course and the window for action is closing. It is clear that progress can happen quickest at regional level with regional governments being the true leaders in sustainability.”²⁵

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

There is already wide third sector agreement that the White Paper proposals fall short of the political commitments made, the public will and what is necessary for the long term future of Wales. We look forward to continue working with the Welsh Government and all parties in developing a strong and effective Bill.

²⁵ Welsh Government press release, ‘Wales’ commitment to sustainability is on the map after Rio conference’, 22 June 2012

ANNEX 1**Friends of the Earth Cymru example clauses and structure for a draft Sustainable Development Bill****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 so as to achieve sustainable development. (2) The Welsh Ministers may publish guidance on how to comply with the duty in subsection (1). (3) A public authority must have regard to any guidance published under subsection (2) when complying with the duty in subsection (1).
2 Meaning of sustainable development
(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: (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).

ANNEX 2

Rio Declaration 1992

PREAMBLE

The United Nations Conference on Environment and Development,

Having met at Rio de Janeiro from 3 to 14 June 1992,

Reaffirming the Declaration of the United Nations Conference on the Human Environment,

adopted at Stockholm on 16 June 1972, and seeking to build upon it,

With the goal of establishing a new and equitable global partnership through the creation of new levels of co-operation among States, key sectors of societies and people,

Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system,

Recognizing the integral and interdependent nature of the Earth, our home,

Proclaims that:

PRINCIPLE 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

PRINCIPLE 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

PRINCIPLE 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

PRINCIPLE 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

PRINCIPLE 5

All States and all people shall co-operate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

PRINCIPLE 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

PRINCIPLE 7

States shall co-operate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

PRINCIPLE 8

To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

PRINCIPLE 9

States should co-operate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

PRINCIPLE 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

PRINCIPLE 11

States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.

PRINCIPLE 12

States should co-operate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

PRINCIPLE 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also co-operate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

PRINCIPLE 14

States should effectively co-operate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

PRINCIPLE 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

PRINCIPLE 16

National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

PRINCIPLE 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

PRINCIPLE 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

PRINCIPLE 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.

PRINCIPLE 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

PRINCIPLE 21

The creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.

PRINCIPLE 22

Indigenous people and their communities, and other local communities, have a vital role in environmental management and development because of their knowledge and traditional practices.

States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

PRINCIPLE 23

The environment and natural resources of people under oppression, domination and occupation shall be protected.

PRINCIPLE 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and co-operate in its further development, as necessary.

PRINCIPLE 25

Peace, development and environmental protection are interdependent and indivisible.

PRINCIPLE 26

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.

PRINCIPLE 27

States and people shall co-operate in good faith and in a spirit of partnership in the fulfilment of the principles embodied in this Declaration and in the further development of international law in the field of sustainable development.

A SUSTAINABLE WALES

BETTER CHOICES FOR A BETTER FUTURE

1. Glandŵr Cymru – The Canal & River Trust in Wales - welcomes the opportunity to respond to the Welsh Government’s consultation on the Sustainable Development Bill. The Canal & River Trust was formed in July 2012, taking over the responsibility as the guardian of the waterways, the waterways museums and archives in England and Wales from British Waterways and The Waterways Trust. The Trust is a registered charity.
2. For the first time this places the management and development of this part of Wales’ working industrial heritage and its eco systems within Wales.
3. Glandŵr Cymru wishes to play its part in the Welsh Government’s ambition to ensure that sustainable development is at the heart of everything we do in Wales. Our waterways have been here for 200 years and we expect them to remain in perpetuity. Within our lifetime many waterways ceased to be relevant to the communities that lived by them and they quickly fell into decay albeit sometimes to the short benefit of the natural environment. Over the last 50 years, through the enthusiasm and efforts of local people, we have seen them once more become engines of economic and social well-being and havens for wildlife.
4. Glandŵr Cymru recognises the challenge in finding a path between the sometimes competing interests of the environment, economy and equity. We have pioneered an approach that involves a range of stakeholders defining the way forward and the Conservation Management Strategy developed for the Montgomery Canal, a Special Area of Conservation, is an exemplar of that approach:
<http://canalrivertrust.org.uk/media/library/186.pdf>
Our predecessor body also pioneered post project monitoring that captures outputs and outcomes across these three areas. There are particularly powerful examples in the central belt of Scotland, where the canals are Scheduled Ancient Monuments, important and rare habitats and engines of growth. Another example closer to home is the recently completed Droitwich Canals restoration which successfully met conservation, community and commercial demands.

5. As an organisation that delivers across a range of economic, environmental and social outcomes we also welcome the integration of the planning framework if this means that investment decisions can take into account the agglomeration of benefits accruing.
6. Our waterways are a powerful tool for delivering cross border, cross local authority and cross government priorities and co-operation in an unthreatening way. We look forward to working with the Welsh Government to ensure our waterways meet their potential and contribute to the people of Wales becoming healthy people living productive lives in a more prosperous and innovative economy, in safer and more cohesive communities, with lower levels of poverty and greater equality; within a resilient environment with more sustainable use of our natural resources and a society with a vital sense of its own culture and heritage.
7. Recently Jacobs were asked to evaluate the eco system services value of inland waterways on behalf of Defra. Their original report is on: http://www.waterways-forward.eu/wp-content/uploads/2012/06/The-Benefits-of-Inland-Waterways_Final-Report-July-2009_JACO.pdf and their later report looking at values for specific waterways and types of waterway is on: https://www.waterways.org.uk/pdf/iwac/value_of_inland_waterways. Canals showed higher baseline values for the key benefits than rivers. Investment led to an increase in benefits that outweighed the level of investment made with over 80% of the possible gain in benefits arising from informal use of the towpaths.
8. The focus on long term goals, early intervention based on evidence to tackle underlying causes rather than symptoms and the emphasis on collaboration and partnership is welcomed and strongly supported.
9. The definition of Sustainable Development in Wales is supported as is the goal of setting the standard in Wales but also in Europe. The document's recognition Wales operates on an international stage and declared willingness to benchmark and exchange best practice is welcomed.
10. In achieving these goals it will be important to recognise the need for investment to achieve long term benefits and savings and to develop ways in which those future savings can be recognised during budget negotiations. New models may be required to ensure decisions are not taken on a purely monetary basis or that non market benefits are adequately recognised; particularly where decisions are made within areas where such factors are not taken into account by competing markets (or across the border).

11. It will also be important to ensure the thread established by this Bill is clearly woven through current and subsequent legislation including the Planning, Heritage, Active Travel and Regeneration Bills, etc.

Chapter 2 A Sustainable Development Duty

12. The proposals are supported.
13. The implication that less may be done but with better long term outcomes is recognised and supported. That intention that the duty is cultural and not bureaucratic is welcomed. The availability of a pool of best practice and pathfinder peers, from whom advice can be sought, would assist organisations in making the necessary adjustments.
14. We agree that outcomes should be the focus, albeit supported by lead indicators, and that flexibility in determining the outcomes should reside with the organisation delivering them.
15. Given that the change is cultural / behavioural we also agree that the focus should be on the high, strategic level processes which will then influence those at a tactical level.
16. As an organisation that delivers across a range of economic, environmental and social outcomes we also welcome the integration of the planning framework if this means that investment decisions can take into account the agglomeration of benefits accruing. For example, at the simplest level, improving a canal towpath has an impact on health and well-being (communities attracted to take more exercise), carbon (people changing from car to foot or bike); economic well-being (increased tourism and an uplift in property values), community safety (defensibility and people's improved confidence in their neighbourhood), etc.

Chapter 3. An Independent Sustainable Development Body

17. The role of the body should be to challenge, advise, encourage and support bodies to which this duty applies, those wishing to comply voluntarily and Government. It should be a positive influence and be a body that organisations are pro-active in turning to for advice without fear of rebuke. The way pilots are encouraged to report near misses is a model of the type of open and "fear free" learning environment that needs to be encouraged.

18. Reporting should follow the definition of sustainable development and must therefore encompass social and economic as well as environmental factors. Integration with the work of other Commissioners is therefore vital.

Chapter 4. Implementation

19. Appointment of the body as soon as possible and in advance of the Bill and compliance by the bodies listed is sensible and will allow advice and assistance to be offered to those pathfinder bodies.

20. In contrast to Scotland, and despite its role in creating a sense of place and local distinctiveness, that much of it is as old as our landscape, and its economic importance for the Welsh brand and tourism in particular, the state of our built heritage is not included within the Sustainable Development Indicators. This is an omission that needs to be corrected.

Chapter 5. Accountability

21. Exclusion of scrutiny from the duties of the new independent body will more easily allow it to act as an advisor and support to bodies seeking to develop and change their behaviour. It is also right, given that the behaviour should be embedded within organisations, that scrutiny is part of existing systems and processes. However these should be examined to ensure they are fit for that purpose or whether they need to be adapted or extended.

Andrew Stumpf

Head of Wales

Glandŵr Cymru – the Canal & River Trust in Wales

Wales Heads of Environmental Health Group response to the Welsh Government consultation on proposals for a Sustainable Development Bill

A Sustainable Wales Better Choices for a Better Future

Consultation on proposals for a Sustainable Development Bill

Date of issue: 3 December 2012

Responses by: 4 March 2013

Consultation Questions

Q.1	What are your views on the proposals for a new duty to embed sustainable development as the central organizing principle of selected organizations in Wales?
<p>In principle, the Wales Heads of Environmental Health Group welcomes the proposals. A strong case is made for the new duty to be introduced. The emphasis on outcomes and not dictating the detail is welcomed as it makes sense for sufficient flexibility to be accommodated for meeting the circumstances of each organization. However, while it may only apply to selected organizations in Wales, it could have significant implications for businesses where the Head Office is located in England but which has establishments in Wales. It is important to recognize that whilst proposals are being currently tabled, it does not mean that elements are not already in existence as a result of implementation by organizations and partnerships. This underlines the need to learn from current good practice and avoid any possible duplication.</p> <p>Wales Heads of Environmental Health welcomes the important emphasis on outcomes.</p> <p>In terms of the Local Service Board – how will Police Forces and Third Sector be affected as they are not included in the Bill?</p> <p>It will be necessary to clarify how the duty will apply to integrated, collaborative and partnership endeavors involving private sector organizations and the third sector, who may not necessarily be under the same obligations as public sector bodies</p>	

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

There is a role for a new body that can assist in supporting organizations and embed the new requirements which would reduce the burden and duplication of effort but it must be well resourced and adequately equipped.

Care must be taken to ensure that any outcome objectives for authorities are not subject to league tables which lack meaning in relation to achievements.

An independent body is essential for providing the objectivity and distance from government necessary to maintain the focus and momentum of an agenda that will inevitably present challenges to government, not least financially.

The Sustainable Development (SD) Body / Commissioner (when appointed) will need to remain independent and be truly capable of providing support to organizations and partnerships. There is a need to ensure that a consistent approach taken for all bodies. The necessary meaningful support will be required as soon as possible if Local Authorities are to implement this by 2016.

We support the principles of Results / Outcomes Based Accountability and forward projections together with the provision of tools to allow us to embed SD as our central organizing principle. However, will the SD Body have sufficient capacity and power?

Q.3	What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body?
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“It is proposed that the duty will be brought forward in a phased approach to ensure that sufficient guidance and advice is available from the independent sustainable development body and the Welsh Government to support organizations subject to the duty.”

A phased approach is sensible and perhaps the timescales could be put further back to allow more time for the new body to become established. This would then allow organizations to have time to plan better for proper implementation and even undertake some pilots to gain exemplars of good practice for further dissemination.

Whichever approach is adopted, there would need to be a sufficient lead- in period to enable local authorities to revise and amend their strategies, policies, management arrangements and processes, including compliance assessments and the necessary scrutiny structures.

Relevant staff and elected members would need to receive training and instruction on the adopted arrangements. If SD is to be effectively and consistently embedded within public sector organizations, then central guidance and methodologies (such as screening tools, assessments, evaluation techniques, etc.) will be essential. Introducing, implementing and refining the SD arrangements within organizations will have direct and incidental costs and, with public bodies already having to deliver services against a backdrop of financial contrition, leadership and direction from WG on service priorities will be essential.

A phased implementation would be welcomed – The timescale outlines 1 year between the establishment of the independent body and the duty on organizations – this may not be sufficient to enable organizations to plan for implementation.

It is obviously important that we learn from those organizations which will be affected from 2015; however, planning needs to commence as soon as possible and early guidance is fundamentally necessary and would be welcomed as soon as practicable.

Q.4	What are your views on the proposals to improve the accountability framework for sustainable development in Wales?
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A concern might be that this would increase compliance costs, both directly and indirectly. Can this be clarified please?

In addition, is there a role for the new body to undertake health check assessments on progress made?

It is important that the SD Bill does not create an overly bureaucratic accountability framework and allows for local flexibility and innovation. The messages provided to public sector organizations need to be reflected openly to those provided to regulators.

Evidence available to date suggests plenty of expertise exists to enable the information to be manipulated in such a way as to suggest that there have been significant changes when, in fact, it is only a process of massaging and manipulating of statistics or information/data control. Such a situation is completely unacceptable but some of the issues involved are potentially emotive. It follows that securing the support of all relevant organizations, agencies and medias that can influence public perceptions will be difficult. Holding individuals and organizations to account for failing to change behaviors will be challenging, as will measuring the effectiveness of actions and actual achievements and successes.

The decision as to whether something is lawful or not will ultimately rest with the courts. However, the actual difficulties in terms of degrees of compliance will be down to interpretation. While WG does not wish to resort to litigious corrective measures being used to secure compliance, there may be occasions when this would be necessary, unless other means of coercion can be utilized (e.g. removal or reduction in funding support). If there was a significant, flagrant and repeated failure to respond then it may be appropriate to have in place an offence which will enable an individual or an organization to be held to account.

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

Further clarity is required in terms of making Local Service Boards and integrated planning statutory as part of the Bill.

Longer term budget setting will be required for this to be effective (i.e. 3 year budget cycles from WG). Also there is a need to take into account various reductions already implemented by the Welsh Government, e.g. Local Transport Services Grant (LTSG).

The aspiration of WG is to secure a greater appreciation of SD, embed the principles of SD within the business of public sector organizations and effect fundamental changes in behavior so that long term goals and outcomes can be achieved. Unfortunately, most organizations work on short term, or at the best medium term, timescales. These are influenced by funding restrictions (annual budget rounds with limited opportunity for long term budget planning or certainty around available levels of funding), terms of elections (4/5 years) and competing priorities, etc.

Communication will be critical if decision makers at all levels and citizens are to understand what needs to be done and what is required of them. Many people remain sceptical about some of the key issues linked to this agenda (climate change, the role of technological solutions, resource depletion, etc.) and so consistency and uniformity of messages is critical, along with robust and relevant evidence. Embedding the principles of SD within public sector organizations will in many cases require a fundamental cultural shift and a completely different approach to conducting business.

WG will need to be clear about the ultimate priority and communicate this in an effective way. Is the fundamental question here about the need for the economy to grow, that there must equity and equality of opportunity for all citizens, or is it that we are living far beyond our means and that the depletion of resources will have a catastrophic impact on future generations?

Whilst the intention is to make SD the central organizing principle for WG and public bodies in Wales, the impact that private sector organizations have on the economy, environment and wellbeing of citizens must also be considered. Some will inevitably respond positively to the proposals and will seek to support the agenda. However, it may be more difficult to secure that same commitment from businesses that are run from outside of Wales.

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	Mr Lyn Cadwallader	
Organisation	One Voice Wales	
Address	24c College Street Ammanford Carmarthenshire SA18 3AF	
E-mail address	lyn.cadwallader@onevoicewales.org.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>One Voice Wales welcomes the proposed new duty however sustainable development needs to be clearly defined to ensure all bodies have the same understanding of the concept - within the Bill it is unclear on the definition of SD being used as the Bill quotes the definition from the current SD scheme and mentions Brundtland. The new duty must be far more robust than the present duty and needs to go beyond producing a scheme or making sustainable development merely a 'central organising principal'. One Voice Wales considers it necessary to go beyond making SD a 'consideration' as this may in fact have the unintended consequence of actually weakening the duty. One Voice Wales would advocate that in its present form the duty could be confusing and would like to see the duty defined and explained in terms of how to comply with it and how to implement it. Given this will be a completely new area of responsibility for the community and town council sector it is considered a requirement rather an option. Consequently One Voice Wales considers that the Bill must clearly define sustainable development, rather than leaving it to interpretation and that the definition clearly leads to effective action on the ground and in communities. It is One Voice Wales's opinion that whilst sustainable development is an important principal it should not be the central organising principal. The wellbeing of the community should be equally as important. Any duty must have regard to the varying size of the hundreds of town and community councils across Wales. Larger town and community councils are likely to be better able to contribute due the size of its precept and staffing structures they have already in place.</p>	

Q2

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

Please provide your views below:

One Voice Wales recognises the need for and value of a body to support and guide those organisations subject to the duty and be a champion for future generations. One Voice Wales considers it important that the sustainable development body should be independent of Welsh Government and be able to hold the Government to account. Within the Bill the level of independence is unclear and needs clarification - and the ability to investigate and take action on failures by public bodies to comply set out something which the existing Bill does not appear to address. Furthermore it should not duplicate the role of the Welsh Government in terms of policy development; specifically - Assembly Scrutiny Committees, the Auditor General, Single Environment Body. Its purpose should be to offer practical support and expertise to those delivering public services in Wales and be adequately resourced in terms of staffing to support an active programme of research and evaluation, policy development and supporting organisations like community and town councils to acquire the necessary skills, capacity and knowledge development to implement effective sustainable development schemes. If a new body is to be mainstreamed then it should be integrated into all public bodies' performance monitoring and included in the duties of the Auditor General. The new body should have clear terms of reference and produce an Annual Report that all organisations subject to the duty are invited to comment on. The body should be supportive of and educate bodies such as town and community councils in integrating sustainable development into their work. Any conditions should be simple to implement and should not be onerous or over-bureaucratic particularly having regard to the

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:

One Voice Wales supports the proposed phasing but would request that guidance on how to prepare for the changes should be produced and circulated as soon as possible.

Phased implementation of the SD Bill will at least give CTCs time to watch and learn from the experience of the public bodies that have to meet the Duty in the earlier phases. By raising the awareness now (regarding lack of capacity), this gives WG time to consider stratifying the duty to account for an organisation's ability to meet it. Perhaps for the smaller councils it should be a "duty to consider" SD.

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:

One Voice Wales supports the proposal that the Code of Audit Practice be amended to show how the Auditor General for Wales will carry out the audit and the principles to be applied.

One Voice Wales considers that budget and strategic planning corporate priorities need to link up however this needs to be proportionate in terms of the size of organisation being held accountable and that for small community councils in particular that as little additional bureaucracy should result. Whilst community and town councils are phased in last in 2017 this time frame is relatively short given the considerable amount of adjustment the sector will need to undergo and it must be recognised that the sector is the only statutory public service that does not have central government financial support for the delivery of their key core strategic functions - this is an issue that will need to be clearly addressed in the four year period prior to the duty taking effect.

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:

Whilst the aims of the legislation set out in the White Paper are commendable, it is short on detail. The overarching requirement is for legislation that is clear, delivers certainty, and is easy to implement. What is important is that all organisations subject to the duty clearly understand their responsibilities and what needs to be done well in advance of implementation dates to ensure sustainable development is central to its decision making.

The guidance should underline that the new duty should be delivered within the framework of the existing multi-level governance for sustainable development (in terms of international, European, UK and Wales levels, and should encourage public service organisations in Wales to draw on best practice in the UK, Europe and elsewhere.

It is increasingly apparent that Community and Town Councils should have an important role, recognising the importance of subsidiarity and the new well being powers, in orchestrating sustainable development practice

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>

END CHILD POVERTY NETWORK CYMRU

RHWYDWAITH DILEU TLODI PLANT CYMRU

The End Child Poverty Network Cymru is co-ordinated by



Children in Wales
Plant yng Nghymru

Consultation response

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

The **End Child Poverty Network Cymru** (ECPN) is a coalition of concern focused on the eradication of child poverty in Wales, co-ordinated and managed on a day-to-day basis by Children in Wales. Its steering group include representation from across the voluntary and statutory sectors and the Network has an increasing supporting membership from a broad cross-section of agencies.

Steering Group members include Barnardo's Cymru, Children in Wales, Save the Children Wales, NEA Wales, Action for Children, NSPCC Cymru, WLGA (observers), Citizens Advice, Oxfam Cymru, Public Health Wales, Shelter Cymru, the Frank Buttle Trust, Fairbridge Cymru-Princes Trust, Consumer Focus Wales and the Office of the Children's Commissioner for Wales (observers).

Operational since 2001, the ECPN is supporting the Governments vision that no child in Wales should be living in poverty by 2020, and is working to achieve this by

- Increased public and professional understanding of child poverty in Wales
- Public and professional support for measures to tackle child poverty
- Ensure that policies are in place at all levels of Government (local, Assembly and Westminster), which contribute to eradicating child poverty in Wales.

ECPN Cymru welcomes the Welsh Government's intention to embed sustainable development as a central organising principle for a limited number of public bodies in Wales and take this opportunity to share some overarching points to help inform development of the Sustainable Development Bill. Given the broad scope of the White Paper and the breadth of the agenda, our response will primarily focus on the proposals outlined in relation to child poverty

Our response has been led by ECPN Cymru member Action for Children in consultation with Steering Group members

Introduction

Although levels of child poverty in Wales had fallen over the last decade, the number of children living in poverty is now on the rise again, with independent analysis predicting this upward trend is likely to continue at least in the short to medium term. 33 per cent of children in Wales are living in households in relative income poverty which is higher than the other nations of the UK. This is around 200,000 children, over half of who live in working families.

Wales cannot develop sustainably without addressing child poverty. Child poverty has been well documented to result in inequality of health, education and economic outcomes for children living in low income households.

We cannot achieve “social, economic and environmental well-being” without investing in strong and capable populations which can respond to both immediate problems and long term redirection of public policy. Sustainable development relies upon increased social, as well as institutional, capacity through healthy, productive people and resilient, inclusive communities.

We have responded to questions 1 and 2 of the consultation exercise as below.

Consultation 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?

We welcome the intention to introduce a new duty to embed sustainable development as the central organising principle for selected public bodies in Wales. If the new duty is to bring about the desired step change in strategic decision making and organisational development it must be a strong duty which clearly focuses organisational decision making on “clear outcomes that improve the wellbeing of Wales”.

To discharge their duties effectively and meaningfully, it must be absolutely clear what the desired outcomes of the duty are for each public body. Welsh Government should make clear the specific, desired outcomes of this legislation to enable constructive scrutiny.

Reduction of child poverty should be a specific outcome for all public bodies covered by the duty and an action in which they are required to work towards.

We welcome the Welsh Government's intention to provide a clear definition of sustainable development is required on the face of the Bill, and consider this is especially important to maintaining equal focus on increased social, economic and environmental capacity. This definition must also make clear that investment in "future generations" must take place **alongside** investment in our current populations, and that early intervention and action to prevent long-term, entrenched consequences is an important part of a sustainable future and national wellbeing. This being consistent with the objectives of the Child Poverty Strategy 2011, Tackling Poverty Action Plan 2012 and the draft Social Services and Well-Being Bill.

The Bill must make clear this new duty's interface with existing responsibilities on public bodies, particularly those which contribute to increased social, economic and environmental capacity. For example, the **Children and Families (Wales) Measure 2010** placed a duty on Welsh Ministers to develop a child poverty strategy and local authorities/named Welsh Authorities to produce strategies which seek to address child poverty levels in their areas. From April 2013, local authorities can discharge this duty through local Single Integrated Plans.

The Social Services and Well-being (Wales) Bill [as introduced] includes a duty on local authorities and local health boards to promote the well-being of people who need care and support, and carers who need support. Similarly in practice, schemes such as Flying Start demonstrate a shift towards early years support and a preventative approach. These duties and schemes contribute to increasing Wales' capacity for sustainable development and the Sustainable Development Bill will need to consider and mitigate the risk these existing duties are exercised in isolation, without due regard for the contribution they make to increased capacity and wellbeing to the population of Wales as a whole. The Bill presents an opportunity to put forward structural governance and decision making improvements which can support a broad, whole system change in which all strategic decisions are made through the lens of sustainable development, but it must do by contextualising and building upon existing opportunities if it to avoid becoming merely a "tick box" duty.

We agree Sustainable Development can provide an overarching framework within which policy priorities are framed, as per section 3.30 of the consultation document.

Welsh Government should explicitly commit to eradicating child poverty as an outcome sought by the introduction of the Bill if it is to be a truly effective tool in enhancing wellbeing and increasing social capacity.

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, and consider a supportive, convening role appropriate to the spirit and intention of the proposed legislation as a long-term public policy driver. It is, however, imperative the Commissioner is able to hold Welsh Government and other public bodies to account as regards their discharging of their sustainable development duties, and where necessary to take action on failure to comply. Such powers are incredibly important if the body and Commissioner are to be able to support the step-change in decision making desired, and to establish authority as an overarching principle across public bodies governance and strategies.

We welcome the White paper's consideration of the interaction between the new body and existing Commissions, such as the Children's Commissioner for Wales. It is important that development of a Welsh interpretation of sustainable development is informed by existing Welsh commitments to equality and human rights. Effective working relations with the Children's Commissioner for Wales is particularly important in the context of our response given the Commissioner's commitment to tackling child poverty as a key priority as epitomized by their 2011 Child Poverty Strategy.

Submitted by Sean O'Neill, Children in Wales on behalf of the End Child Poverty Network
Cymru

March 2012

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	Julie Nicholas	
Organisation	Chartered Institute of Housing Cymru	
Address	4 Purbeck House Lambourne Crescent, Cardiff Business Park Llanishen, Cardiff CF14 5GJ	
E-mail address	julie.nicholas@cih.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 checked="" type="checkbox"/>
	Third sector (community groups, volunteers, self help groups, co-operatives, enterprises, religious, not for profit organisations)	<input type="checkbox"/>
	Academic bodies	<input type="checkbox"/>
	Member of the public	<input type="checkbox"/>
	Other (other groups not listed above)	<input type="checkbox"/>

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>CIH Cymru welcomes the opportunity to respond to the Sustainable Development (SD) White Paper. We support the proposals to create a consistent approach, to build capacity, to embed SD within public sector governance and procurement policies and to ensure that strategic planning is focussed on delivering long-term solutions and positive outcomes for Wales.</p> <p>The Housing industry in Wales has a successful history of SD implementation; CIH hosts and supports the i2i project which promotes SD practice through sharing good practice, improving capacity and using targeted recruitment and training in procurement and contracting to directly benefit deprived communities. The sector has embraced these principles and is seeking to share them further with public and third sector procurement, that meets the EU draft directives that states “public procurement must, more than every, ensure the optimal use of funds in order to foster growth and job creation..and encourage access to public procurement for SMEs”.</p> <p>Welsh Government must however ensure that it does not inadvertently and significantly increase the bureaucratic process for the selected agencies, who are already facing significant resource challenges; both Local Government and Registered Social Landlords are facing unprecedented financial pressures because of the effects of Welfare Reform and UK Government austerity measures. We would suggest that focussing on sharing and developing good practice, stream-lining SD systems and improving the decision-making process should be priorities.</p>	

Q2

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

Please provide your views below:

CH Cymru supports the establishment of an independent SD body, as well as the role and function proposed. We have some concerns with the potential for duplication of roles already provided by other organisations such as the Auditor General Wales, and would prefer that the body was set up without leading to unnecessary increased burdens on organisations, we would also suggest that it should be resourced properly

We would also agree that the body should have a strong focus on promoting Sustainable Development practice, rather than just a regulatory function. CIH Cymru believes that good quality, secure housing underpins the health and wellbeing, and the safety and security, as well as the educational and economic success of individuals, families, and communities. As such the housing sector mirrors the cross-cutting agenda of SD and CIH Cymru strongly recommend that representatives from our industry, with SD, regeneration and procurement expertise, be included on the proposed Advisory Panel.

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:

CIH Cymru agrees with a phased approach as proposed in the paper, aligned to existing corporate planning processes and reporting arrangements, to minimise the burden on participating organisations.

We note that Local Government is scheduled for inclusion in the second phase (2016) and RSLs for the third and final phase (2017). However we would suggest that inclusion of some Local Authorities and RSLs in a voluntary capacity during the first phase (2015) might be of assistance to the new body, as many housing and local authorities professionalshave considerable expertise and experience in SD implementation.

We would also suggest that promotion of the new duty and body beyond the first stage organisations could begin prior to the date on the implementation time-table. This would help to build capacity and preparedness, and to ensure that valuable benefits and practice are shared as soon as possible.

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:

CIH Cymru agrees that accountability and good governance are key to ensuring SD principles are embedded in the systems and processes of the Welsh organisations to which the duty will apply.

We support the WhitePapers proposal to ensure that SD scrutiny and enforcement functions of the new independent body do not overlap with, or duplicate, that of existing bodies such as the Auditor General to minimise the burden on the selected organisations. However it must be made very clear in legislation where the final responsibility for audit and enforcement of the new SD duty will sit.

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:

CIH Cymru believes that good quality, secure housing underpins the health and wellbeing, and the safety and security, as well as the educational and economic success of individuals, families, and communities.

The housing industry in Wales has often led the way in SD initiatives, including CIH Cymru's i2i project which has SD principles at its core, with its focuss on maximising community benefits in procurement and development.

The housing sector mirrors the cross-cutting agenda of SD, and CIH Cymru strongly recommends that representatives from our industry, with SD, regeneration and procurement expertise, be included on the proposed Advisory Panel.

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>