

Scottish Parliament Social Justice and Social Security Committee

Wellbeing and Sustainable Development (Scotland) Bill

Written submission by Children and Young People's Commissioner Scotland, 27 November 2025

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights.

The Commissioner is fully independent of the Scottish Government.

At our evidence session on 6 November 2025, we offered to provide the Committee with further clarification on the following issues.

1. Overlaps between the proposed powers of the Future Generations Commissioner for Scotland and those of the Children and Young People's Commissioner Scotland

As we outlined in our Stage 1 evidence¹ to the Committee, there is a risk of overlap across our office's statutory functions and the Future Generations Commissioner as proposed in the Bill. Under the Bill, a Future Generations Commissioner would have the same statutory powers as CYPCS to promote and raise awareness, keep under review law, policy and practice, and promote best practice, as well as similar investigation powers. However, these powers would be in relation to sustainable development and wellbeing under the Bill, whereas CYPCS's relate to children's rights, particularly under the UNCRC.

Because the definition of wellbeing in the Bill is a broad reflection of existing legally incorporated human rights, it is foreseeable that CYPCS may, for example, be briefing Parliament on the implications of a proposed Bill on children's rights while a Future Generations Commissioner may be doing the same from the perspective of sustainable development and wellbeing. While CYPCS may seek to raise specific concerns about, for example, the implications for children's Article 12 right to participate in decisions, and Article 13 right to freely express themselves, and draw from a variety of international standards, jurisprudence and academic work on human rights, it is not clear how an FGC would seek to define or make recommendations on for example 'respect for...choices and beliefs' (s3(1)(a)).

¹ CYPCS, [Social Justice and Social Security Committee: Call for views on the Wellbeing and Sustainable Development \(Scotland\) Bill](#), 15/9/25

Currently, while CYPSC and SHRC both have human rights remits, CYPSC has a distinct responsibility for children's rights, and both draw from the laws and standards of the international (and regional) human rights system and frameworks. This ensures that, while we hold distinct focus areas, there is a coherence to the exercise of our statutory functions which supports progress on human rights for children and adults. Where statutory functions and therefore guidance and policy positions were to be drawn from broadly worded wellbeing legislation, which speaks about similar ideas but lacks connection to human rights legal principles, there's a real risk that coherence is lost and conflicting guidance is produced, reducing clarity for public bodies on their responsibilities or for Government and Parliament on the implications of decisions for people in Scotland's rights.

2. Alternative options to establishing a commissioner proposed by Carnegie UK

The options proposed by Carnegie² include a role for Audit Scotland in enhancing accountability for sustainable development. Of the options proposed in the paper, this is in our view likely to be the most effective. This is because of the existing breadth of the office's remit in terms of public bodies' work, and the clearer link between public body finance, performance, and efforts towards sustainable development. Where linked to a clear framework for achieving sustainable development, such as a reformed national performance framework, this approach could have value in ensuring sustainable development is more embedded in public bodies' functions. However, as noted by Carnegie this is likely to have resource implications.

We have concerns that a shared cross-commissioner/SPCB body responsible for sustainable development is likely to lead to confusion and overlap of remits, as well as not sitting appropriately within the resource and expertise of the organisations involved.

This has already been identified as a barrier by Carnegie in terms of the distinct human rights remit of CYPSC and SHRC, as well as the need to conform to specific international standards including the Paris Principles. The Children and Young People's Commissioner has a distinct and specific responsibility to promote the rights of children in Scotland, and any additional responsibilities outside of that remit should be coherent with that purpose and adequately resourced. We are not convinced that there is a clearer link with children's human rights than with wider environmental regulatory responsibilities, or that regulation of a due regard duty of this type which sits outside of the human rights framework fits with the set up and purpose of our office. It is also worth noting that Carnegie identified this option as having significant limitations including in relation to role confusion.

We do not consider that these overlap and remit issues can be sufficiently addressed through an MOU, which may operate to clarify ways of working or separate remits to some extent, but cannot address fundamental issues of how such a wide-ranging duty would sit effectively in bodies with a diverse set of existing remits and responsibilities. The example MoU in the options paper replicates some of the existing duties of CYPSC and also risks conflating children and young people with 'future generations'. For example, shared

² Carnegie UK, [Putting collective wellbeing and sustainable development into action: An options paper for Scotland](#), 31/3/25

responsibilities to ensure the voices of children and young people and future generations are integral to decision making would overlap with CYPSC's statutory duty to promote awareness and understanding of the rights of children and young people, which includes promoting children's right to be heard under Article 12 UNCRC, as well as the duty of public bodies to ensure children and young people's participation in decision-making in line with Article 12 when acting in scope of the UNCRC Act.

We're concerned at the conflation of children and young people, a current generation who have rights which must be upheld now, with the needs of the children and adults who may live in Scotland in the future.

More generally, as described in our written and oral evidence, if sustainable development duties continue to be tied to wellbeing as proposed and defined in the Bill, then regardless of the oversight model significant overlap and confusion will be created due to the way wellbeing is defined.