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# Wellbeing and Sustainable Development (Scotland) Bill

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The Wellbeing and Sustainable Development (Scotland) Bill was introduced in the Scottish Parliament by Sarah Boyack MSP on 27 March 2025. This Member's Bill seeks to create a new duty on public bodies to promote wellbeing and sustainable development, and to establish a Future Generations Commissioner for Scotland.



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# Summary and key bill documents

The [Wellbeing and Sustainable Development \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 27 March 2025.

It is a Member's Bill and was introduced by Sarah Boyack MSP ("the Member in charge of the Bill"). Information about Member's Bills, including how they are introduced and progress through the Scottish Parliament, [is set out on the Scottish Parliament website](#).

The Bill creates a new public duty, which requires all public bodies to have "due regard" for the need to promote wellbeing and sustainable development in the exercise of their functions. It also establishes statutory definitions of the terms "wellbeing" and "sustainable development" for the purposes of the Bill. It establishes a "Future Generations Commissioner for Scotland".

The [Bill as introduced can be found on the Scottish Parliament website](#) alongside supporting documents which include:

- [A Policy Memorandum](#)
- [Explanatory Notes](#)
- [A Financial Memorandum](#)
- [A Delegated Powers Memorandum](#)
- [Statements on legislative competence](#).

As a Member's Bill, the Bill and supporting documents were prepared by the Scottish Parliament's Non-Government Bills Unit (NGBU).

The lead committee for this Bill is the Social Justice and Social Security Committee. The Committee [issued a Call for Views on the Bill](#) which closed on 24 August 2025. 41 submissions were received through the Committee's call for views on [Citizen Space](#), and an additional 7 submissions were received by correspondence. All responses have been published either on [Citizen Space](#) or on the [Bill's webpages](#). There is a published [SPICe summary of these responses](#).

More information about the Committee's scrutiny of the Bill can be found on the [Bill webpages of the Scottish Parliament](#). Here you can also find a link to [scrutiny of the Bill's Financial Memorandum](#) by the Finance and Public Administration Committee, and the [report from the Delegated Powers and Law Reform Committee](#).

Cover photograph - Earthrise - view from the moon 1968 Apollo 8 Mission. Image Credit: NASA

# Background to the Bill

## Policy Objectives of the Bill

Sustainable Development remains a global commitment of United Nations Member States under the [2030 Agenda for Sustainable Development](#) – and articulated and highlighted (including on the [front page of the United Nations website](#)) through the globally agreed Sustainable Development Goals.

In that context, the Policy Memorandum to the Bill includes that policy objectives for the Bill include that it:

“ will foster a joined-up approach to sustainable development and wellbeing across the public sector, which will complement and enhance existing national frameworks for tackling the challenges faced by society, including climate change.”

And that it:

“ will renew and advance Scotland’s commitment to sustainable development by improving PCSD [policy coherence for sustainable development] among Scotland’s public bodies. It aims to enshrine sustainable development and wellbeing in law as key factors influencing public policy development and the actions and decisions of public bodies.”

A further policy objective could be, as the Policy Memorandum describes:

“ facilitating a culture shift towards a longer-term approach to decision-making and policymaking, in which public bodies consider the interests of future generations, alongside immediate and short-term benefits”

in the context that”

“ too often, the decisions of public bodies are driven by short-term goals, to the detriment of the environment, the planet’s natural resources, society, and collective wellbeing”

The Policy Memorandum states that:

“ The Bill has three main strands that the Member considers will come together to achieve its policy objectives • establishing statutory definitions of the terms “sustainable development” and “wellbeing” • imposing a statutory duty on public bodies to consider wellbeing and sustainable development in the exercise of their functions; • creating the office of the Future Generations Commissioner for Scotland.”

### *Policy coherence for sustainable development*

While not referenced in the Bill itself, the Policy Memorandum includes that the member in charge “believes that, despite the Sustainable Development Goals (SDGs) and the National Performance Framework, a culture of short-termism persists” and considers the concept of policy coherence for sustainable development (PCSD). The [UN 2030 Agenda for Sustainable Development](#) - under Sustainable Development Goal 17 on partnership for the goals - relates directly to enhancing policy coherence for sustainable development.

[More information on this is available on the UN SDGs website.](#)

Broadly this is the idea that intended and unintended consequences of policy decisions in one area, which affect another, should be clearly and better understood. The Member in Charge of the Bill takes the view in the Policy Memorandum that policy coherence for sustainable development must involve:

“ different parts of government (i.e. public bodies) collaborating, identifying common goals, and ensuring that the work of one part does not undermine the work of another.”

The idea of ‘co-benefits’ from policy and other decision taking is explored in some academic literature, for example [The \(Co\)Benefits Portal—an evidence-based and climate policy-relevant tool for decision-making](#) (Bianca van Bavel *et al* 2025 *Environ. Res. Lett.* 20 103009).

## Existing duties on public bodies

As mentioned in the Policy Memorandum, there are existing statutory duties on public bodies in relation to sustainable development.

Examples include those in the Community Empowerment (Scotland) Act 2015, [a summary of which is available online](#) - which includes specific duties on public authorities and other organisations carrying out public functions to have regard to the National Outcomes (which, as noted elsewhere, are designed to align with the SDGs), and duties placed in relation to community planning, and in the achievement of sustainable development under community right to buy.

Section 44 of the Climate Change (Scotland) Act 2009 (as amended) includes relevant duties - [guidance on which now exists online](#). This guidance aligns sustainable development, climate change and a just transition. The achievement of the SDGs is also explicitly referenced in the 2009 Act.

One example of a public institution responding to these duties is the Scottish Parliament itself, which has developed its own [Sustainable Development Impact Assessment tool](#) – around the idea of “scrutiny coherence”. The tool is constructed around two central requirements:

- Living within environmental limits
- A strong, healthy and just society

Underpinned by:

- A sustainable economy
- The responsible use of sound science
- Promotion of good governance.

The idea of scrutiny coherence has also been the basis for Scottish Parliament Session 6 [work on climate change \(the issue\) and net zero \(a policy response\)](#).

The Standing Orders of the Scottish Parliament already require legislation to be accompanied by a statement on the implications of draft bills on sustainable development – emerging from related discussion as far back as the Consultative Steering Group 1998 report '[Shaping Scotland's Parliament](#)'.

## Sustainable Development

While the term “sustainable development” has most recently become more prevalent and can now be found referred to in innumerable policy texts and laws, the ideas behind it emerged in the mid-20<sup>th</sup> century. These ideas were based on the premise that the Earth's resources are not infinite, and that as the now defunct UK Sustainable Development Commission recognised “that human activity was having severe and negative impacts on the planet, and that patterns of growth and development would be unsustainable if they continued unchecked”. The Commission [provided a useful history](#), including:

- “Key works that highlighted this thinking included Rachel Carson's *Silent Spring* (1962), Garret Hardin's *Tragedy of the Commons* (1968), the *Blueprint for Survival* by the *Ecologist* magazine (1972) and the Club of Rome's *Limits to Growth* report (1972)
- The concept of sustainable development received its first major international recognition in 1972 at the UN Conference on the Human Environment held in Stockholm. The term was not referred to explicitly, but nevertheless the international community agreed to the notion - now fundamental to sustainable development - that both development and the environment, hitherto addressed as separate issues, could be managed in a mutually beneficial way
- The concept of sustainable development formed the basis of the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992. The summit marked the first international attempt to draw up action plans and strategies for moving towards a more sustainable pattern of development. It was attended by over 100 Heads of State and representatives from 178 national governments. The Summit was also attended by representatives from a range of other organisations representing civil society
- Sustainable development was the solution to the problems of environmental degradation discussed by the Brundtland Commission in the 1987 report *Our Common Future*. The remit of the Brundtland Report was to investigate the numerous concerns that had been raised in previous decades”.

Global focus continued with agreement of the [Millennium Development Goals](#) in 2000, with a target date 2015, and the [2002 Johannesburg World Summit on Sustainable Development](#). While the Millennium Development Goals were credited with some success, the Sustainable Development Goals (agreed in the UN 2030 Agenda for Sustainable Development) remain the vehicle for a shared understanding of the concept, and action towards their achievement. They remain front and centre for the United Nations, articulated and highlighted [on the front page of the United Nations website](#).

In Scotland, the Scottish Government maintains that the [National Performance Framework](#) and its National Outcomes are the way it approaches achievement of the Goals. The National Outcomes, and the processes for their establishment, are underpinned by the Community Empowerment (Scotland) Act 2015. The National Performance Framework is

currently undergoing review. [Work has been done previously on the alignment between the National Performance Framework and the SDGs.](#)

## Wellbeing

The Policy Memorandum to the Bill recognises that the concept of “wellbeing” is complex:

“ The multifaceted nature of the concept of “wellbeing” makes it a challenging concept to define, particularly given its various uses and applications. For example, wellbeing can refer to objective and subjective wellbeing; personal, collective or national wellbeing; or wellbeing as a quality-of-life outcome.”

And that:

“ the term “wellbeing” has a multitude of different meanings and applications in public policymaking, with no single overarching definition consistently used in policy or legislation.”

While the Policy Memorandum also explores and explains more recent references to the “wellbeing economy”, the Member in charge of the Bill outlines that a clear and practical definition for wellbeing which “can be clearly understood by public bodies”, is necessary and desirable.

## Linkages between sustainable development and wellbeing

The Bill is explicit in linking the proposed definition of “sustainable development” with that of “wellbeing”. This is important as regards the policy intent of the Bill as it aligns sustainable development with a wellbeing definition which is deliberately linked to the wellbeing of individuals, families and other groups. This is discussed further in the Bill detail section.

## Future Generations Commissioner for Scotland

The Bill establishes a Future Generations Commissioner for Scotland. According to the Policy Memorandum, the Commissioner’s:

“ function will be to promote the interests of future generations by promoting sustainable development by public bodies in all aspects of their decisions, policies and actions. Alongside the statutory definitions of “wellbeing” and “sustainable development” and the new statutory duty on public bodies, the Member believes that the establishment of an independent Commissioner will ensure the ongoing achievement of the Bill’s policy aims, fostering a shift towards long-termism in public policymaking.”

It has been made explicit that the idea has drawn inspiration from experience in Wales – this is discussed further in the section on Experience in Wales.

## Experience in Wales

The [Well-being of Future Generations \(Wales\) Act 2015](#) is concerned with improving the social, economic, environmental and cultural wellbeing of Wales. The Act establishes 7 connected wellbeing goals:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of more cohesive communities
- A Wales of vibrant culture and thriving Welsh language
- A globally responsible Wales.

The Act further places a duty on public bodies to produce wellbeing objectives to show how the goals will be achieved. The Act requires that public bodies:

- take account of the long term
- help to prevent problems occurring or getting worse
- take an integrated approach
- take a collaborative approach
- consider and involve people of all ages and diversity.

The Act establishes a sustainable development principle:

“ that the body must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.”

The Act includes a definition of sustainable development as:

“ the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the wellbeing goals.”

The Act established the role of the [Future Generations Commissioner](#) for Wales. The current Commissioner is Derek Walker, who describes the role as “to support and challenge Wales to make decisions in the best interests of people who aren’t born yet”. And that in law his duties are to:

- Promote the sustainable development principle, in particular to act as a guardian of the ability of future generations to meet their needs and encourage public bodies to take greater account of the long-term impact of the things they do
- Monitor and assess the extent to which well-being objectives set by public bodies are

being met.

Most recently the Commissioner reported, in his [Future Generations 2025 report](#) that:

“ Without urgent action to address the climate and nature emergency, growing inequality and other long-term trends, we will be on track for an unrecognisable future, where the choices we have taken before us today are taken away, or made more difficult than we could ever imagine. Our Well-being of Future Generations Act provides us with a pathway for improving lives now and in the future so that when people ask what we did to make Wales and the world better we can say we did everything we could. ”

This was also [reported in the media](#).

## Post Legislative Scrutiny in Wales

At its meeting on 31 March 2025 the [Senedd Equality and Social Justice Committee](#) agreed to undertake post-legislative scrutiny of the Well-being of Future Generations (Wales) Act. The terms of reference were to consider:

- how far the intended objective of the Act is being achieved
- any action which should be taken to improve the effectiveness of the Act and its implementation, including any specific drafting issues
- whether the review and reporting requirements under the Act are being met
- the effectiveness of guidance made under the Act
- how far the Act has been legally binding and enforceable;
- how far the Act has represented, and will continue to represent, value for money.

The Committee consulted on the issue between April and June 2025. Details and responses received in written evidence are available [on the committee consultation webpage](#). The committee has heard evidence in a number of sessions, with evidence continuing to be taken into September 2025. Details of those sessions are available on the [committee inquiry webpages](#). At the time of writing, no committee report has been produced.

## Scottish Parliamentary Corporate body (SPCB) Supported Bodies Landscape Review Committee

The [Scottish Parliamentary Corporate Body \(SPCB\) Supported Bodies Landscape Review Committee](#) was established in December 2024 to strategically consider and review the role of Parliamentary Commissioners, following an inquiry by the Finance and Public Administration Committee and its [report in September 2024](#).

For that inquiry, ‘commissioner’ means any officeholder (Commission, Ombudsman or

Commissioner) whose terms and conditions of appointment and annual budget are set by the Scottish Parliamentary Corporate Body (SPCB).

The inquiry sought to consider whether a more coherent and strategic approach is needed for the creation of such commissioners in Scotland

The Committee [reported in June 2025](#), including recommendations that future SPCB bodies (including new Parliamentary Commissioners) should only be created if particular criteria are met. These criteria are:

- Clarity of Remit : a clear understanding of the officeholder's specific remit
- Distinction between functions: a clear distinction between different functions, roles and responsibilities including audit, inspection, regulation, complaint handling, advocacy
- Complementarity : a dovetailing of jurisdictions creating a coherent system with appropriate linkages with no gaps, overlaps or duplication,
- Simplicity and Accessibility: simplicity and access for the public to maximise the “single gateway/one-stop shop” approach
- Shared Services : shared services and organisational efficiencies built in from the outset; and
- Accountability: the establishment of clear, simple, robust, and transparent lines of accountability appropriate to the nature of the office.

The [SPCB responded to the report on 11 September 2025](#), a response which included support for criteria recommended by the Committee.

The Member in Charge of the Bill [responded to the Committee report on 15 September 2025](#). This included that the member believes:

“ the aims of the Bill are closely aligned with the key themes of your Review, particularly in embedding coherence across public decision-making, ensuring greater policy alignment, and establishing proportionate and effective oversight that adds value in the long-term.”

And, in relation to a Future Generations Commissioner, that:

“ By embedding long-term thinking, collaboration, and whole-life cost analysis into everyday decision-making, the Commissioner could help public bodies avoid waste, improve value for money, and unlock co-benefits across sectors. This approach mirrors the experience in Wales, where the Future Generations Commissioner has demonstrated that investing in wellbeing and sustainable development not only improves short term outcomes but can also lead to significant long-term savings across the public sector.”

## Member consultation

On 13 December 2022, Sarah Boyack MSP lodged a draft proposal for a Member’s Bill in the following terms—

“ A draft proposal for a Member’s Bill to ensure policy development and implementation by public bodies is in line with principles of sustainable development and wellbeing by introducing a duty for public bodies to promote these principles and establishing a Commissioner for sustainable development and wellbeing.”

A [consultation document](#), prepared with the assistance of the Parliament’s Non-Government Bills Unit, accompanied the draft proposal. The consultation exercise, carried out by the Office of Sarah Boyack MSP, on the original draft proposal ran from 14 December 2022 to 24 March 2023. There were 92 responses to the consultation. A summary of the responses to the consultation [can be accessed online](#) . This includes a list of respondents.

## Scottish Government position, including consultation on wellbeing and sustainable development legislation

As referenced in the accompanying documents to the Bill, the Scottish Government had previously committed to legislating in this area (and had consulted on proposals for legislation, more on this below). Subsequently the Scottish Government chose not to proceed with its own bill, but to support this Bill – then set out that it believes legislation is not necessary to achieve policy objectives. This position was set out in a [Memorandum published on 3 September 2025, setting out the Scottish Government’s position](#). This included that:

“ The Bill’s policy intentions have significant crossover with the National Performance Framework (NPF), which is the Government’s wellbeing framework. The DFM (Deputy First Minister) announced a reform of the NPF to Parliament on 8 January 2025 to make it stronger, more strategic and impactful. The NPF implementation plan, which the Government committed to putting in place following the FPAC inquiry *Ambitions into Action* (2022), is now being taken forward as part of NPF reform. Reform aims to, over time, address issues of accountability of public bodies, the content of the national outcomes and indicators and aligning and embedding the NPF into the budget, the Programme for Government and Public Service Reform (PSR) strategy.”

The Memorandum sets out further detail relating to “necessity, cost and burden of statutory definitions, additional duties, a new commissioner and potentially a new impact assessment” concluding that:

“ While the Government is supportive of the policy intention, for the reasons outlined above, it opposes the Bill. There are significant concerns that the proposals are not the most effective way of achieving the policy intentions. This includes the Bill’s misalignment with NPF reform, which seeks to achieve similar aims.”

In December 2023 the Scottish Government [consulted on its own proposed Wellbeing and Sustainable Development Bill](#). The proposals were to relate to the Scottish Government’s NPF, and National Outcomes, and set out that:

“ the Wellbeing and Sustainable Development Bill will clearly establish in legislation principles that ensure government and public bodies act in a way that improves how we use and implement the National Outcomes and meet the values and aspirations of the people of Scotland. To achieve this, we are considering several specific legislative measures.”

These measures included consideration of definitions of wellbeing, and sustainable development, and strengthening duties on public authorities. Specifically the proposals included consultation on strengthening the duty on public authorities under the [Community Empowerment \(Scotland\) Act 2015](#) to “have regard to” the National Outcomes, in particular by:

“ stipulating that instead of requiring public authorities in Scotland to “have regard to the National Outcomes”, we expect collaboration and any decision making to be undertaken in a manner that maximises our collective contributions to achieving wellbeing and sustainable development.”

The consultation also sought views on an independent Commissioner for Future Generations. The consultation had 180 responses. All [published responses are available online](#), together with [a consultation analysis](#). The Government found in summary that:

- A majority of respondents were in favour of statutory definitions of ‘wellbeing’ and ‘sustainable development, though challenges were also identified
- Some respondents said the current duties on the National Outcomes were not clear or robust enough and that a stronger legal duty, or wording of a legal duty, could provide a more explicit requirement to work towards the National Outcomes
- Most agreed that the strengthening of a legal duty should apply widely and include Scottish Ministers and the Scottish Government explicitly
- Some agree that it is important for the Scottish Government to explore ways to improve reporting on the achievement of wellbeing objectives. However improved reporting should not become unduly onerous or bureaucratic and duplicate other existing processes
- Views mixed on whether Scotland should establish an independent Future Generations Commissioner (FGC). Less than half of respondents agree with this, and a sizeable proportion were unsure or did not answer, with some against the proposal. Further clarity and consideration are needed on the role, remit, purpose, functions and powers of the FGC and its integration with the existing landscape of Commissioners, including the risk of overlap.

# What the Bill does (with background)

The Bill creates a new public duty, which requires all public bodies to have due regard for the need to promote wellbeing and sustainable development in the exercise of their functions. It also establishes statutory definitions of the terms “wellbeing” and “sustainable development” for the purposes of the Bill. It establishes a “Future Generations Commissioner for Scotland”.

## Duty to have due regard to wellbeing and sustainable development (section 1)

Part One section 1(1) of the Bill states that:

“ A public body must, in the exercise of its functions, have due regard for the need to promote wellbeing and sustainable development.”

The Bill further states at section 1(2):

“ A public body must, when exercising its duty under subsection (1), have regard to any guidance published under section 5(2)(a) or (b).”

This guidance is that provided by a Future Generations Commissioner for Scotland.

### *Background*

The Policy Memorandum details some of the background around the choice of “due regard” in section 1(1), rather than, for example “have regard”, pointing to the Public Sector Equality Duty, set out in the Equality Act 2010, and taking on board a summary from the Equality and Human Rights Commission that:

“ In particular, decision-makers need to:”

- be aware of their responsibilities under the duty”
- make sure they have adequate evidence (including from consultation, if appropriate) to enable them to understand the potential effects of their decisions [...]”
- consciously and actively consider the relevant matters, in such a way that it influences decision-making”
- do this before and at the time a decision is taken, not after the event”
- be aware that the duty can’t be delegated to third parties who are carrying out functions on their behalf.”

The “due regard” in section 1(1) is not mirrored in section 1(2) where there is a requirement instead to “have regard” to guidance from the Future Generations Commissioner.

Section 1(1) also references the need for public bodies to “promote wellbeing and sustainable development”, rather than, for example, deliver it. How the duty might be

exercised, and how there can be consistency across public bodies would presumably be a matter for guidance and evaluation from the Future Generations Commissioner for Scotland.

The definition of public body is considered later.

## **Definition of ‘sustainable development’ (section 2)**

Section 2 gives a definition of “sustainable development” as:

“ Sustainable development” is development that improves wellbeing in the present without compromising the wellbeing of future generations.”

The Policy Memorandum points out that the phrase is used in multiple policy documents, and in legislation but without definition.

### *Background*

The Policy Memorandum indicates that this definition is inspired by the famous definition in the 1987 Brundtland World Commission on Environment and Development report, ‘Our Common Future, that’:

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

There is further text in the Brundtland report, that the definition:

“ contains within it two key concepts: the concept of 'needs', in particular the essential needs of the world's poor, to which overriding priority should be given; and the idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs.”

The Brundtland definition therefore explicitly introduces and includes the idea of planetary boundaries, of environmental limits. It is from this that the idea of three pillars of sustainable development emerged - social, environmental and economic.

The definition in the Bill explicitly links the sustainable development definition to wellbeing (discussed later).

## **Definition of ‘wellbeing’ (section 3)**

Section 3 defines “wellbeing” as:

"the ability of individuals, families and other groups within society to enjoy:

- (a) personal dignity, including respect for their choices and beliefs,
- (b) freedom from fear, oppression, abuse and neglect,
- (c) good physical, mental and emotional health,

- (d) participation in meaningful activity including work, education, training and recreation,
- (e) an adequate standard of living including suitable and affordable accommodation, food, clothes and energy,
- (f) access to the natural environment for health, leisure and relaxation".

### *Background*

As explored earlier, the Policy Memorandum explains that a number of different formulations of wellbeing were considered, before a focus on

“individuals, families and other groups within society”. This was a deliberate choice by the member, that:

“ The Member believes that the concepts of sustainable development and wellbeing are inextricably linked and views sustainable development as essential for maximising wellbeing in society, both now and in the future. Therefore, the Bill defines “sustainable development” in a way that recognises improved wellbeing as its outcome. The Member considers that establishing a separate statutory definition of “wellbeing” will support understanding and interpretation of the term in policy contexts, and within this legislation, by providing a list of factors that are considered essential to individual, collective and societal wellbeing.”

Given that the Bill seeks to align the definition of “sustainable development” with the definition of “wellbeing”, and the definition of “wellbeing” is about the wellbeing of individuals, families and other groups within society - it could be considered notable that the definitions together may not include explicit reference to environmental limits.

## **Establishment of the Future Generations Commissioner for Scotland (section 4; and Schedules 1 and 2)**

Part 2, Section 4 (and Schedule 1) of the Bill establishes the Future Generations Commissioner for Scotland. The text appears somewhat modelled on the Commissioner for Children and Young People (Scotland) Act 2003, as amended.

Schedule 1 sets out the detail of the establishment of the Commissioner, and includes sections relating to:

- Status and independence
- Appointment, termination and terms and conditions (including tenure, and remuneration)
- General powers (which include that the Commissioner may do anything which appears to the Commissioner “necessary or expedient” in relation to Commissioner functions)
- Staff and officers
- Accounts and accountability.

Schedule 2 sets out detail of the investigative powers of the Commissioner, including:

- Requirements to provide evidence or produce documents
- Evidence on oath or affirmation
- Admissibility of statements in subsequent criminal proceedings
- Offences
- Allowances and expenses.

### *Background*

The role of the Commissioner is explicitly related to the duty, and to the definitions relating to sustainable development and wellbeing. This is similar to the equivalent legislation in Wales (discussed earlier). Areas for consideration include the premise and requirement for a commissioner, how policy objectives might be achieved without one (as argued by the Scottish Government), and potential alignment or overlap with existing commissioners or other bodies.

## **General function of The Future Generations Commissioner for Scotland**

The general function of the Commissioner is described as:

“ to promote the wellbeing of future generations by promoting sustainable development by public bodies in all aspects of their decisions, policies and actions.”

In carrying out the general function, the Commissioner is to do a variety of things including:

1. produce guidance on the duty
2. review and update guidance
3. promote awareness and understanding amongst public bodies of wellbeing and sustainable development
4. keep under review the law, policy and practice relating to wellbeing and sustainable development with a view to assessing the adequacy and effectiveness of such law, policy and practice in giving effect to wellbeing and sustainable development
5. promote best practice by public bodies, and promote, commission, undertake and publish research on matters relating to wellbeing and sustainable development.

### *Background*

The Bill does not define “future generations”, but the Welsh Commissioner describes his function as representing those not yet born. One question might be around the alignment of the general function relating as it does to “public bodies in all aspects of their decisions, policies and actions” with the duty in section 1(1) relating to public bodies in the exercise of their functions – and whether these equate.

The requirement to keep relevant law, policy and practice appears far reaching, and together with the investigations powers described below, give the commissioner latitude and ‘teeth’.

## **Investigations by the Commissioner – powers, effect and requirements (sections 6-11, and Schedule 2)**

Sections 6 – 11 give powers and effect to Investigations which can be carried out by the Commissioner. According to the Policy Memorandum the:

“ ... Commissioner will have the power to carry out investigations into devolved matters, should they consider that the issue relates to the promotion of wellbeing and sustainable development. This will allow the Commissioner the opportunity to examine any perceived non-compliance by public bodies with their duty to have regard to the need to promote wellbeing and sustainable development in the exercise of their functions.”

The Bill allows for “general” and “individual” investigations:

“ A general investigation is an investigation into whether, by what means and to what extent public bodies have regard to wellbeing and sustainable development in making decisions, developing policy or taking actions.”

This includes requirement of “reasonable grounds that the matter to be investigated raises an issue of particular significance to the wellbeing of future generations”.

The Bill further sets out that:

“ An individual investigation is an investigation into whether, by what means and to what extent one or more public bodies have had regard to wellbeing and sustainable development in making a particular decision, adopting a particular policy or taking a particular action.”

And:

“ Where the Commissioner considers that the matter may be capable of being resolved without an investigation, the Commissioner may with a view to securing that outcome take such steps as the Commissioner considers appropriate.”

### *Background*

These sections, and the detail in Schedule 2 set out the framework for the Commissioner to undertake investigations where there are ‘reasonable grounds’ to do so. They are intended to give the equivalent powers to those set out for “review” held by the Commissioner in Wales. As the Policy Memorandum outlines, the powers in Wales have recently been reviewed, with findings including:

- The Welsh Future Generations Act and the extent to which it has been embedded in the DNA of Welsh public policy development and delivery continues to be world-leading

- The reach of the Act, enthusiasm and commitment for what it aims to achieve has extended beyond those organisations who are covered by the legislation
- Its success to date has resulted more from leadership and commitment than embedded processes;
- Clear leadership, continual communication and constant review will be needed for the Government to move successfully to the next phase of implementation.

A general question here may be whether and to what extent the functions and powers of the Commissioner are comparable with other similar offices in Scotland, and how the Commissioner would be expected to interact with other bodies with potentially overlapping or similar functions.

## **Other provisions**

Sections 12-14 set out requirements for the Commissioner to produce a strategic plan, annual reports and other reports. Section 15 relates to protection from actions of defamation – this is for statements made to or by the Commissioner (or a member of the Commissioner’s staff). Section 16 and Schedule 3 related to the applicability of the

Further ancillary provisions are set out in sections 17-19, including some definitions, and on commencement.

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