

Wellbeing and Sustainable Development (Scotland) Bill: Consultation Analysis Report

July 2024

Contents

Executive summary	4
1. Introduction.....	12
This report	12
The Wellbeing and Sustainable Development (Scotland) Bill	12
What the consultation sought views on	13
2. Consultation methodology	14
Introduction	14
Public consultation	14
Stakeholder workshops.....	16
Analysis	16
Consultation limitations	17
3. Defining wellbeing	18
Introduction	18
Question 1	18
Question 2	18
Event summary	26
4. Defining sustainable development.....	28
Introduction	28
Question 3	28
Question 4	28
Question 5	29
Question 6	35
Question 7	38
Event summary	44
5. Strengthening duties for National Outcomes and sustainable development	47
Introduction	47
Question 8	47
Question 9	54
Question 10	61
Event summary	64
6. Clarifying to whom the duties apply	67
Introduction	67
Question 11	67
Question 12	70

Event summary	76
7. Defining ways of working	78
Introduction	78
Question 13	78
Question 14	84
Question 15	90
Question 16	93
Event summary	97
8. Determining an approach for future generations.....	99
Introduction	99
Question 17	99
Question 18	100
Question 19	104
Event summary	108
Appendix A: Stakeholder events	111
Appendix B: Consultation response publishing preference	112
Appendix C: Satisfaction with the consultation	113

Executive summary

Introduction

The Scottish Government launched the consultation on the [Wellbeing and Sustainable Development \(Scotland\) Bill](#) on 6 December 2023. The consultation ran for 10 weeks to 14 February 2024. EKOS, an independent research consultancy, was commissioned by Scottish Government to analyse the responses received. This summary presents a high-level overview of the analysis.

The consultation on the Wellbeing and Sustainable Development (Scotland) Bill sought views from people and organisations across Scotland on several specific legislative measures to: help inform the scope of any legislation required; and ensure that all decision-making is focused on achieving the National Outcomes for current and future generations.

There are 180 validated responses to the consultation. Around two-thirds of all responses are from organisations with the remainder from individual respondents. A wide range of public sector, third sector, and membership organisations submitted a response. Fewer responses are from the private sector.

The consultation included a mix of closed and open-ended questions. A sizeable portion of organisation respondents, in particular public, third, and membership organisations responded 'don't know' or chose to leave closed questions unanswered.

Summary tables for all closed questions are presented in the main report. For open-ended questions, we have undertaken an approach to help readers get a sense of the strength and frequency of themes and issues raised by respondents. This means that:

- most chapters in the report contain numbered themes (for example, Theme 1, Theme 2, Theme 3) - these have been set out in order of relative importance with Theme 1 noted by the greatest number of respondents
- points raised have been quantified in some way to articulate the strength of opinion - for example, we use the terms 'all' (100% of respondents), 'almost all' (between 91% to 99% of respondents), 'most' (between 75% and 89% of respondents), 'many' (between 41% and 74% respondents), 'some' (between 11% and 40% respondents), and 'few' (10% or less of respondents)

The consultation was supplemented by 17 stakeholder events which attracted a public and third sector audience. The feedback from those who attended an event largely mirrors the consultation responses. Some organisations who attended an event also submitted a formal consultation response.

A summary of findings from the six themes of the consultation are presented below. The analysis contained in the main report provides further detail.

Defining ‘wellbeing’

A majority of consultation respondents (61%) agree that a statutory definition of ‘wellbeing’ is required. These respondents feel that a statutory definition would provide clarity and consistency in how the concept of wellbeing is applied in legislation, policy making, and decision-making. As wellbeing is a broad and multi-faceted concept this would provide greater specificity around public sector duties. In turn, this would help to improve accountability and reporting.

Some consultation respondents acknowledge that it may be difficult to provide a statutory definition of ‘wellbeing’ that has universal applicability and understanding – wellbeing is said to be a relative or subjective term, and its meaning can change over time and depending on context.

Some consultation respondents point to existing definitions of wellbeing from policy and/or legislation which could be considered or used as a statutory definition of ‘wellbeing’ in Scotland. Examples include those from: World Health Organization (WHO), Organisation for Economic Co-operation and Development (OECD), Welsh Government, Wellbeing Economy Alliance and Carnegie UK, and Getting it right for every child (GIRFEC).

A sizable proportion of consultation respondents ‘don’t know’ if a statutory definition of ‘wellbeing’ is required or left the question unanswered (26% combined). These respondents highlight similar issues to those outlined above (for example, challenges in developing a statutory definition of wellbeing, alignment with globally accepted and understood definitions).

Consultation respondents who feel that a statutory definition of ‘wellbeing’ is not required (13%) also highlight the inherent challenges in defining wellbeing. Other points raised include that a statutory definition of ‘wellbeing’ could be constrained by that definition and risks becoming outdated or irrelevant to certain communities and demographic groups. It is also suggested that non-statutory approaches may be more appropriate.

Defining ‘sustainable development’

Two-thirds of consultation respondents (67%) agree that a statutory definition of ‘sustainable development’ is required. Several benefits are identified, including that this would: provide clarity on what the term, which is widely used in existing legislation and policy, means in practice; embed sustainable development principles into legislation and decision-making processes; and would help to ensure public sector duties are clearly defined, actionable, and accountable.

A sizable proportion of consultation respondents either ‘don’t know’ whether a statutory definition of ‘sustainable development’ is required or left the question unanswered (22% combined).

The remainder of consultation respondents said that a statutory definition of 'sustainable development' is not required (11%). Feedback from these respondents includes that: the value and benefit of defining sustainable development in legislation are not clear; non-statutory measures may be more appropriate; and statutory requirements for public authorities may have unintended consequences for the third sector.

Around half of consultation respondents agree (53%) with the Scottish Government proposal that any definition of sustainable development should be aligned with the common definition: 'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'. Relatively similar proportions of remaining consultation respondents either responded 'no', selected 'don't know', or left the question unanswered.

The main themes from the qualitative feedback provided by those respondents who express agreement to the two closed questions (outlined above), or who responded 'don't know', or who left the closed questions unanswered, include that:

- a statutory definition of sustainable development in Scotland should align with globally accepted and understood definitions of the term
- existing definitions of sustainable development could be strengthened, most notably to ensure the primacy of ecological sustainability or living within 'planetary boundaries' is captured
- a set of 'guiding principles' could help to provide further clarity on how sustainable development should be implemented in practice

Possible wording or phasing extensions to the Scottish Government proposed definition of sustainable development or alternative definitions are also provided by respondents.

Most consultation respondents feel that the legislation has the potential to help Scotland tackle future wellbeing issues and challenges. Challenges in answering this question are also highlighted – wellbeing means different things to people. A wide range of wellbeing issues and challenges are identified in consultation responses, including but not limited to, tackling poverty, improving health and wellbeing, protecting the environment, and supporting thriving and vibrant communities.

In considering what impact, if any, the proposed definition of sustainable development could have on other areas of legislation, points raised by respondents include that: there is no single definition of sustainable development set out in Scottish legislation, and so there is the potential for conflict (for example, with land reform); a review of existing legislation alongside consultation with stakeholders could help to identify where there is the potential for conflict; and that while having a clear definition of 'sustainable development' would be helpful, this does not necessarily call for a new duty or legislation.

Strengthening duties for National outcomes and sustainable development

The Community Empowerment (Scotland) Act 2015 requires all public authorities to 'have regard to' the National Outcomes in carrying out their work. Some respondents consider the wording of the existing duty 'not clear,' 'strong,' or 'sufficient' enough for public authorities to deliver on the ambition set out in the National Outcomes. Further, the current wording is considered too 'subjective' which then makes it difficult to know if wellbeing and sustainable development have been fully considered in decision-making processes.

It is suggested that clearer and stronger wording in the duty or having a more explicit requirement to work towards the National Outcomes and sustainable development would provide greater clarity, consistency, and accountability in delivery of public services across Scotland. Wording or phrasing changes are also put forward by respondents.

Some consultation respondents acknowledge that there are challenges and complexities if duties are strengthened for National Outcomes and sustainable development. Points raised include that:

- a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations should not be overly 'prescriptive' – rather, support is expressed for a more 'flexible' framework
- the varying size, resources, capability, and capacity of public bodies should be considered if a legal duty is introduced
- implementing a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations should be accompanied by supplementary guidance to public authorities
- implementing a legal duty may also require additional investment and support for effective implementation

Some organisation respondents suggest that there could be value in Scottish Government undertaking a review and streamlining of existing duties placed on public authorities – as there are a range of existing and emerging policy and legislation related to sustainable development. There is a call for greater clarity from Scottish Government on how the proposal to have a defined legal duty to ensure that public authorities uphold sustainable development and the interests of future generations would align with and complement existing requirements placed on public authorities.

When asked whether any specific areas of decision-making should be included or excluded in the Bill, many respondents suggest that all areas of decision-making should be included within scope of the Wellbeing and Sustainable Development Bill. It is said this would be consistent with the main aim of the Bill to "ensure wellbeing and sustainable development are at the heart of all policy and delivery decision-making."

Further, it is suggested that any exclusions could undermine the Bill, threaten the coherence and clarity of the policy, and impede effective implementation.

A few individual respondents do not support the introduction of new legislation, and simply say that all areas of decision-making should be excluded from the Bill. A few organisation respondents also identify specific areas of decision-making that could be excluded. No common themes emerged from the feedback. Rather, individual points are raised, including: matters that are reserved to the UK Government; anything to do with religion; third parties receiving funding; and regulators and potentially other public bodies set up with a function that involves a relatively narrow policy area.

Clarifying to whom the duties apply

Most consultation respondents' express agreement that any duty should apply widely - all public authorities as well as Scottish Government and Scottish Ministers. Qualitative feedback in support of this viewpoint includes that:

- public authorities have a direct relationship with Scottish Government and play an important influencing role in the delivery of the National Outcomes
- the Scottish Government should 'lead by example' and set the standard
- it is difficult to justify placing duties on public bodies without holding Scottish Government and Scottish Ministers to account - this would increase transparency and ensure effective accountability for delivery of the National Outcomes

Some respondents feel that duties should extend beyond public bodies and apply to the private and third sectors – these sectors are said to also influence delivery of the National Outcomes and receive public funding to deliver services and contracts on behalf of public authorities.

Few respondents feel that duties should not apply to any organisation. There is limited qualitative feedback relating to this viewpoint, though points raised include that: no organisation should be obligated by this type of duty; and duties set out in this consultation should not be applied.

Defining ways of working

Some respondents note in their consultation response that it is important for Scottish Government to explore ways to better report the achievement of wellbeing objectives. A common point raised is that this would help to hold public bodies, including Scottish Government, to account, and aid learning.

Common points raised by these respondents include that:

- clear and robust definitions of 'wellbeing' and 'sustainable development' are required to ensure a shared understanding and clarity of focus

- comprehensive and detailed guidance could help ensure a ‘consistent’ and ‘standardised’ approach to reporting the achievement of wellbeing objectives among public bodies
- enhanced capacity building support to public bodies could enable better reporting on the achievement of wellbeing objectives, and help public bodies comply with reporting requirements
- further stakeholder engagement, including with the third sector and communities, may be required to seek ‘consensus’ on the most appropriate indicators for reporting the achievement of wellbeing objectives
- improvements could be made to the accessibility and availability of national and local data
- public authorities could be required to consult with people as part of their reporting process

Another common theme is that improved reporting on the achievement of wellbeing objectives should not become ‘unduly onerous’ or ‘bureaucratic,’ particularly in the context of public bodies existing statutory reporting requirements, and to reduce ‘duplication’ of processes and effort. A proportionate approach to reporting achievement of wellbeing outcomes could minimise the administrative and reporting burden placed on public bodies, and ensure resources are targeted at supporting effective implementation of the duties.

In terms of what additional steps are needed to ensure collaboration and working across boundaries, the main points raised by consultation respondents are around guidance, resources, and support. For example, suggestions include that:

- legislation could define what is meant by ‘ways of working’ at a high level, and be supported by detailed guidance relating to what is expected by public bodies
- guidance could be provided to public bodies on developing collaboration relationships and working across boundaries – clear overarching goals and principles
- examples of good practice and action relating to collaboration and working across boundaries could be better promoted and celebrated
- capacity building support for public bodies would be beneficial, including the provision of continuing professional development, tools, and training

Respondents also propose that Scottish Government has a leadership role to play in encouraging collaboration and cross-boundary working.

Consultation respondents highlight the range of collaboration and cross-boundary working that already happens in Scotland. For example, Community Planning Partnerships, Regional Economic Partnerships, City and Region Growth Deals, Health and Social Care Partnerships, the Sustainable Scotland Network, and the development of Regional Intelligence Hubs are all referenced.

A suggestion is that there would be a requirement for continued support for, and involvement of, existing partnership structures at a local, regional, and national level to support enhanced collaboration and working across boundaries.

Determining an approach for future generations

Views are mixed in relation to whether Scotland should establish an independent Commissioner for Future Generations. Less than half of consultation respondents (43%) agree with this proposal, 39% either 'don't know' or left the question unanswered (including public sector organisations), while 18% do not think a Commissioner for Future Generations is required (mainly individual respondents).

Should a Commissioner for Future Generations be established, consultation respondents identify several issues that may require further consideration. Further clarity and detail are asked for in relation to:

- the defined role, remit, purpose, and function of a Commissioner for Future Generations
- what powers a Commissioner for Future Generations would have – support is expressed for the post/team to be independent from government and have sufficient authority
- whether a Commissioner for Future Generations would be equipped with adequate staffing and resources to undertake the role and remit effectively
- how a Commissioner for Future Generations would integrate with, complement, and add value to existing activity, and not duplicate activity of existing commissioners or other proposed mechanisms (for example, such as under the Human Rights Bill)

In the context of reducing public sector budgets, a crowded commissioner landscape in Scotland, and an ongoing Scottish Parliament Finance and Public Administration Committee inquiry, some respondents ask whether there is a middle ground in order to achieve a more proportionate and cost-effective approach.

These respondents are more open to how increased accountability, scrutiny, and support for decision-making is achieved. They suggest that alternative, including non-statutory measures, should be identified and assessed by Scottish Government prior to finalising an approach. Points raised by respondents who express support for a middle ground include that:

- Scotland has a number of existing commissioners (as well as ombudsman, tsars, regulatory bodies, and inspectorates) and the same objectives could be achieved by strengthening and resourcing existing bodies or commissioners and using existing frameworks
- the role and remit of an existing commissioner could be extended to fulfil the purpose of the proposed independent Commissioner for Future Generations - for example, Scotland's Commissioner for Children and Young People, Auditor General in Scotland, Audit Scotland, Scottish Human Rights Commission, and Scottish Public Services Ombudsman are mentioned in consultation respondents

- an expert panel of children and young people could be established

Regardless of the approach taken by Scottish Government, these respondents also express support for any mechanism/body to be independent of government, adequately resourced, and their duties and powers clearly laid out.

Consultation respondents who feel that there is not a requirement for a Commissioner for Future Generations or who said that the case for such an appointment has not (yet) been made by Scottish Government, raise several concerns including that:

- the existing commissioner and scrutiny body landscape is set up in different ways, and have different remits and powers – there is a risk of under-funding, dilution, and fragmentation
- the current Scottish Parliament Finance and Public Administration Committee inquiry may influence the final decision
- alternative options could be identified and assessed
- a new Commissioner could create an additional layer of bureaucracy for public bodies, including an additional reporting burden
- the cost of establishing and maintaining a Commissioner for Future Generations, including a team of staff to support the Commissioner, could be significant

1. Introduction

This report

The Scottish Government launched the consultation on the [Wellbeing and Sustainable Development \(Scotland\) Bill](#) on 6 December 2023. The consultation ran for 10 weeks to 14 February 2024. EKOS, an independent research consultancy, was commissioned by Scottish Government to analyse the responses received. This report presents the findings from that analysis.

The Wellbeing and Sustainable Development (Scotland) Bill

The focus of the Wellbeing and Sustainable Development (Scotland) Bill consultation is the future. The [National Outcomes](#) describe the ambitious vision Scottish Government has for Scotland and the desire for all of society to work together to protect Scotland's environment and improve the quality of people's lives. The ambition to put people and planet at the heart of the economy has never been more important given the cost of living and climate crises. To achieve this, Scottish Government recognises that it needs to make greater improvements to the effectiveness of its decision-making to ensure that government is focused on the wellbeing of people and planet, in a way that is sustainable and considers the needs of both current and future generations.

The aims of the proposed Wellbeing and Sustainable Development (Scotland) Bill reflect Scottish Government's priorities. The Policy Prospectus [Equality, Opportunity, Community](#) (April 2023) sets out government's priority to deliver a Wellbeing Economy for people and planet. The [Programme for Government 2023-2024](#) recognises that each mission is connected and, when delivered together, will make a real and positive difference to the lives of people across Scotland. Continually improving the National Outcomes is one of the ways Scottish Government and others can achieve these aims and ensure long-term and sustainable policy and delivery approaches.

In developing the proposed Bill, Scottish Government engaged with stakeholders and considered the extensive work of others to explore how wellbeing and sustainable development can be better reflected in policy and delivery decisions. This included:

- consideration of the [summary of consultation responses](#) to Sarah Boyack MSP proposed Wellbeing and Sustainable Development (Scotland) Bill
- consideration of the [findings](#) of the Scottish Parliament Finance and Public Administration Committee's inquiries into the National Performance Framework (NPF) and effective decision-making
- engagement across the public sector on how the interests of future generations can be better considered in policy
- listening to the views of third sector organisations with an interest in sustainable development

- learning from similar work in [Wales](#), Gibraltar, and others internationally who are working to uphold the interests of future generations

What the consultation sought views on

The consultation on the Wellbeing and Sustainable Development (Scotland) Bill sought views from people and organisations across Scotland on several specific legislative measures to help:

- inform the scope of any legislation required
- ensure that all decision-making is focused on achieving the National Outcomes for current and future generations

The consultation document comprised six sections including:

- defining wellbeing
- defining sustainable development
- strengthening duties for National Outcomes and sustainable development
- clarifying to whom the duties apply
- defining ways of working
- determining an approach for future generations

The remainder of this report is structured in line with the six topic areas and associated questions asked within the consultation document.

The report also provides an overview of the consultation methodology, and a summary of the main themes from the stakeholder events which supplemented the public consultation.

2. Consultation methodology

Introduction

The consultation ran for 10 weeks to 14 February 2023 on the Scottish Government Citizen Space website. Several remote events aimed at a variety of audiences supplemented the online consultation.

Public consultation

Total responses

The consultation received 168 responses by the closing date.

A further 12 responses were received after this and in prior agreement with Scottish Government. This brings the total number of consultation responses received to 180.

Following the data review and cleaning process, one response was subsequently removed, in agreement with Scottish Government, as the response did not relate to the consultation questions. This results in 179 consultation responses.

Following discussion with Scottish Government including the Digital Engagement Team and analytical colleagues, it was agreed that a joint response from various public and third sector organisations would be best treated as two responses in the interest of transparency and to draw on qualitative information provided that is relevant to one or other interest group.

This results in 180 validated consultation responses included in the analysis. Points to note from **Table 2.1** include that:

- almost two-thirds (65%) of all consultation responses are from organisations
- the remainder of responses (35%) are from individuals

Table 2.1: Number of validated responses to the consultation

Respondent type	Number	Percentage
Organisations	117	65%
Individuals	63	35%

N=180

One organisation submitted a response beyond the date of the extension in order to allow its consultation response to go through internal committee processes. The Scottish Government will review and consider this submission separately.

Organisation responses breakdown

Organisation responses are categorised under four broad categories, and points to note from **Table 2.2** include that:

- almost half of all organisation respondents (47%) are from the public sector - for example, local authorities, education and skills bodies, regulators and commissioners, health agencies, and environmental organisations
- the second largest category is the third sector (29%) comprising UK, national, and local charities and voluntary sector organisations - for example, across thematic areas such as advice and advocacy, art and culture, environment, health improvement, social enterprise support, sport and physical activity, and volunteering
- almost one-fifth of organisation respondents (19%) are membership bodies - it should be noted that organisations are placed under one category, although it is recognised that there may be some crossover, for example, a third or public sector membership organisation
- few private sector organisations (5%) responded to the consultation

Table 2.2: Number of validated responses to the consultation by organisation sub-group

Organisation sub-group	Number	Percentage
Public sector	54	47%
Third sector	34	29%
Membership body	22	19%
Private sector	6	5%

N=117

Campaign responses

No campaign responses were identified.

There are consultation responses from various organisations, primarily from third sector and membership organisations and individual respondents, that use the same or similar wording across several open-ended questions or express support for other third sector organisations' responses. This includes consultation responses from:

- The Alliance for Sustainability Leadership in Education (EAUC)
- Edinburgh Voluntary Organisations Council
- Scotland's International Development Alliance
- Scotland CAN B

- Carnegie UK
- UK Environmental Law Association
- Scottish Women's Budget Group
- Inclusion Scotland; Equate Scotland
- International Development Education Association of Scotland
- Scottish Environment LINK
- Stop Climate Chaos Scotland
- Community Land Scotland
- Scottish Community Alliance
- Wellbeing Economy Alliance Scotland
- Scottish Environment Protection Agency

This likely reflects membership bodies (and others) promoting the public consultation to their members and networks, hosting events to share their expert insight into the subject matter, and sharing thoughts on proposed responses to consultation questions.

Stakeholder events

The Scottish Government Wellbeing and Sustainable Development Bill Team also organised and facilitated 17 stakeholder events during January and February 2024, **Appendix A**.

The events were advertised in a variety of ways, including the Scottish Government and partners promoting and circulating information through existing channels and networks. The events were also used to signpost attendees to prepare and submit a consultation response through Citizen Space. Almost 30% of organisations who attended a stakeholder event also submitted a consultation response.

Almost 100 individuals from across 66 organisations attended the events. Most organisations are from the public sector (83%), and the remainder from the third sector (17%). Event notes were provided by Scottish Government to EKOS to be reviewed and to integrate the main themes into the analysis report. Summary points from the events are presented at the end of relevant sections of this report. The points raised at the events largely chime with themes that emerged from the public consultation.

Analysis

All responses to the public consultation were moderated by Scottish Government officials in the Wellbeing and Sustainable Development Bill Team (Performance, Delivery and Resilience Directorate) to ensure that they are valid and appropriate. EKOS then exported consultation responses from Citizen Space into Microsoft Excel for data cleaning, review, and analysis. Where submissions were submitted in another format, Scottish Government officials inputted and moderated these prior to passing the information to EKOS.

The consultation document was structured to allow respondents to answer questions independently in recognition that respondents may want to respond to one or some of the questions without wishing to express views on the others.

The standard process is that equal weighting should be given to all responses. This includes the spectrum of views, from large organisations with a national or UK remit or membership, to individual viewpoints.

The analysis has sought to identify the most common themes and issues. It does not report on every single or specific point raised.

Summary tables for all closed questions are presented in the main report. This analysis includes consultation respondents that selected 'don't know' or did not provide a response to closed questions (meaning blank responses or 'unanswered' questions). These represent sizable proportions of all consultation respondents in some cases, particularly among public sector, third sector, and membership organisations.

For open-ended questions, we have undertaken an approach to help readers get a sense of the strength and frequency of themes and issues raised by respondents. This means that:

- most chapters in the report contain numbered themes (for example, Theme 1, Theme 2, Theme 3) - these have been set out in order of relative importance with Theme 1 noted by the greatest number of respondents
- points raised have been quantified in some way to articulate the strength of opinion - for example, we use the terms 'all' (100% of respondents), 'almost all' (between 91% to 99% of respondents), 'most' (between 75% and 89% of respondents), 'many' (between 41% and 74% respondents), 'some' (between 11% and 40% respondents), and 'few' (10% or less of respondents)

This analysis report includes quotes from respondents who gave permission for their response to be made public. This does not indicate that these comments will be acted upon or given greater weight than others.

Consultation limitations

Respondents to any public consultation or engagement event are self-selecting, and the responses may not be representative of the population as a whole.

There is limited feedback from the private sector.

3. Defining wellbeing

Introduction

This chapter presents analysis of the consultation responses to the two questions asked within the 'Defining wellbeing' section of the consultation.

Question 1

Table 3.1 presents the quantitative response to Question 1 which asked, 'Is a statutory definition of 'wellbeing' required?'.

Points to note include that:

- a majority of all consultation respondents (61%) agree that a statutory definition of 'wellbeing' is required
- a sizable proportion of all consultation respondents either 'don't know' or left the question unanswered (26% combined), in the main organisations and across all sub-groups
- the remainder of all consultation respondents said that a statutory definition of 'wellbeing' is not required (13%), primarily individuals

Table 3.1: Is a statutory definition of 'wellbeing' required?

Respondent type	Yes	No	Don't know	Not answered
Organisations	62%	6%	13%	20%
- Public sector	55%	9%	13%	24%
- Third sector	68%	3%	18%	12%
- Membership body	68%	5%	5%	23%
- Private sector	67%	0%	17%	17%
Individuals	59%	25%	14%	2%
Total	61%	13%	13%	13%

N=180 (117 organisations and 63 individuals)
Percentages may not total 100% due to rounding

Question 2

Around 90% of all consultation respondents answered Question 2 which asked, 'Do you have any views on how 'wellbeing' can be clearly defined in legislation?'.

Consultation responses do not all directly relate to Question 2.

Rather, many respondents provide a rationale for how they answered the previous question (Question 1). These respondents often provide further explanation as to why they agree, disagree, or are unsure about whether a statutory definition of 'wellbeing' is required. Some then go on to express views on how 'wellbeing' can be clearly defined in legislation.

Theme 1: Consultation respondents who express support for a statutory definition of 'wellbeing'

Support for a statutory definition of 'wellbeing' is expressed in Question 1 among individuals, organisations, and across all sub-groups.

Organisation respondents often frame their support for a statutory definition of 'wellbeing' in a range of ways. It is highlighted that:

- there are various references to wellbeing (and wellbeing economy) in legislation and across the policy landscape – it is suggested that a statutory definition of 'wellbeing' could provide greater clarity and a shared understanding among duty holders and the general public
- the range of definitions of wellbeing which exist also 'give rise to different methods of assessing whether wellbeing is being delivered'
- a statutory definition of wellbeing could provide greater clarity and 'specificity around public sector duties' – for example, by setting out overarching goals, what is expected of public bodies, and helping to facilitate improved reporting and accountability
- it could provide clarity and consistency in how the concept of wellbeing 'is applied in legislation, policy making, and public sector decision-making'
- wellbeing is a 'broad concept' and a clear definition with accompanying explanation and guidance ('ways of working') could help public bodies 'in their delivery roles'

Some individual and organisation respondents (all sub-groups) acknowledge in their consultation response that there are inherent challenges in defining a concept such as 'wellbeing,' and arriving at a definition that has universal applicability and understanding.

The main points raised by these respondents are that:

- wellbeing is a relative or subjective term, and its meaning can change over time and depending on context
- the multi-dimensional nature of wellbeing, which encompasses health, economic, social, cultural, and environmental facets and placemaking, can make it inherently difficult to define - but should be captured in a statutory definition (a 'wider determinants of health approach')

The following (selected) organisation quotes further reflect points raised.

“Wellbeing can be a subjective concept, with varying understandings and interpretations into its meaning and applicability to policy. Without a clear definition, it will be more challenging to embed it into legislation and make it statutory. A definition makes it clear to all actors what is involved and is required to measure outcomes – without a definition it is very challenging to monitor and measure outcomes.”

Obesity Action Scotland

“An effective definition of wellbeing must embrace the subjective dimensions of individual experience but set within an assessment of objective context and fact. The WHO and the OECD both define wellbeing using a combination of subjective and objective wellbeing, and this practice is reflected in UK approaches (the ONS) and in Scotland’s current approach with respect the NPF and Getting it right for every child (Scottish Government, 2008) where ‘child wellbeing’ is specifically defined. The NPF combines measurement of how well Scotland is doing in economic terms with a broader range of wellbeing measures. These indicators incorporate a wide range of different types of data – from social attitudes and perceptions to economic and environmental statistics.”

Scottish Borders Council

“It may be necessary to have different definitions for different contexts - for example, the context of national definition versus personal wellbeing. However, it is essential for collaborative working that different organisations have the one definition consistently across all policies that apply to all their services. This could be a very challenging task but one which should be carried out before such a Bill is enacted.”

Argyll and Bute Council

These respondents also identify other issues for Scottish Government to give further thought to when finalising a statutory definition of ‘wellbeing.’

Firstly, support is expressed among these respondents for Scottish Government to develop a statutory definition of ‘wellbeing’ in Scotland which aligns with ‘widely recognised, evidence based, and globally accepted’ definitions of wellbeing.

Existing definitions/approaches, which span both collective and individual wellbeing, referred to in these consultation responses include the:

- [World Health Organization \(WHO\) definition](#)

“Wellbeing is a positive state experienced by individuals and societies. Similar to health, it is a resource for daily life and is determined by social, economic, and environmental conditions. Wellbeing encompasses quality of life and the ability of people and societies to contribute to the world with a sense of meaning and purpose. Focusing on wellbeing supports the tracking of the equitable distribution of resources, overall thriving and sustainability. A society’s wellbeing can be determined by the extent to which it is resilient, builds capacity for action, and is prepared to transcend challenges.”

- [OECD Wellbeing Framework approach which is built around three distinct components - current wellbeing, inequalities in wellbeing outcomes, and resources for future wellbeing](#)
- [Welsh Government Well-being of Future Generations Act which is about improving the social, economic, environmental, and cultural wellbeing of Wales - the Act gives a legally binding common purpose, including seven long-term wellbeing goals](#)
- definition of wellbeing proposed by the Wellbeing Economy Alliance and Carnegie UK (outlined below) – several organisations express support for this definition (or propose minor amendments to it), including Scotland’s International Development Alliance, International Development Education Association of Scotland, EAUC, Scottish Women’s Budget Group, Edinburgh Voluntary Organisations Council, Generations Working Together, National Carers Organisations, and Oxfam Scotland

“Collective wellbeing is the progressive realisation of social, economic, environmental, and democratic outcomes which enable people to meet their needs, as identified through consultation with the people of Scotland, pursued in a way that reduces inequalities in wellbeing between different groups. It also recognises the importance of protecting the interests and needs of future generations and fostering intergenerational equity.”

Wellbeing Economy Alliance and Carnegie UK

- [Getting it right for every child \(GIRFEC\)](#) - statutory guidance which clarifies how the eight wellbeing indicators (SHANARRI)¹ are used in assessing the wellbeing of children and young people

¹ Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible, Included.

- [What Works for Wellbeing Centre](#) which sets out dimensions of wellbeing as: a personal dimension including confidence, self-esteem, reduced anxiety, meaning, purpose and optimism; a cultural dimension, including coping, resilience, achievement, capability, personal identity, creative skills and expression and life skills; and a social dimension including sociability and connections, social capital and reducing social inequalities

Other points raised by consultation respondents who express support for a statutory definition of ‘wellbeing’ in Scotland include that:

- there is a balance to be struck in terms a statutory definition of ‘wellbeing’ that is not too ‘narrowly’ defined (could be constrained or become outdated) or too ‘vague’ (to be rendered meaningless)
- there is an interconnected relationship between ‘collective wellbeing’ and ‘sustainable development’ – the definition of wellbeing should be ‘complementary and overlapping with the definition of sustainable development’ to avoid any potential conflicts, and the relationship between wellbeing and sustainable development should be clearly set out in legislation (for example, how it relates to and differs from)
- the statutory definition of ‘wellbeing’ could be built on the principles of ‘equity, long-termism, and citizen engagement’
- the statutory definition could be built around the principle that ‘individual wellbeing must not be achieved at the expense of ecological degradation’ and reflect the ‘dependence of human wellbeing on environmental quality/planetary health’
- the statutory definition should consider both current and future generations - and not just of people in Scotland – ‘it should work for the wellbeing of the people of Scotland (including future generations) while considering the impact that national policies have on the wellbeing of people elsewhere’
- the statutory definition of ‘wellbeing’ should put ‘human rights at the centre’ – for example, by ensuring that the proposed Human Rights Bill and the Wellbeing and Sustainable Development Bill have ‘appropriate regard for one another, such that they are consistent in their aims, complementary in their duties, and together ensure the fullest realisation possible of human rights for everybody in Scotland’
- continued engagement with stakeholders and citizens could be undertaken to test the statutory definition ‘as wellbeing has many different aspects’ and to engage citizens in a conversation ‘about what matters to them.’ - Social Enterprise Scotland go further and suggest that continued engagement could be undertaken by the proposed Commissioner for Future Generations
- the statutory definition should be supported by ‘effective guidance on ways of working and how the principles should be operationalised’, as well as provision of advice and appropriate resourcing for duty bearers, to ensure effective and consistent implementation by public bodies

- Scottish Government could also consider responses submitted to other consultations – for example, [Proposed Wellbeing and Sustainable Development \(Scotland\) Bill](#) (Sarah Boyack MSP, December 2022), and [National Outcomes review 2023](#) (March 2023)
- any statutory definition of ‘wellbeing’ should be ‘easily understood’ by the general public

Theme 2: Consultation respondents who don’t know or who are unsure whether a statutory definition of ‘wellbeing’ is required

Consultation respondents who ‘don’t know’ whether a statutory definition of ‘wellbeing’ is required or who left Question 1 unanswered (mainly individuals and public sector and membership organisations) raise similar points as other consultation respondents. Points raised include that:

- a statutory definition of ‘wellbeing’ could ‘bring greater clarity and focus,’ but equally there are inherent ‘challenges in defining wellbeing’ as it means different things in different contexts (and wider challenges in trying to quantify wellbeing)
- a statutory definition of ‘wellbeing’ could increase accountability and scrutiny of decision-making by Scottish Ministers and public authorities
- there are various references to wellbeing across existing legislation and policy - consistent definitions are considered important in this regard
- a statutory definition of ‘wellbeing’ that is too narrow risks becoming outdated or irrelevant to certain communities and demographic groups
- there could be a focus on human rights in any statutory definition of ‘wellbeing’

A few (selected) organisation quotes are set out below.

“This illustrates the difficulties with a statutory definition. Can a definition be found which works equally well for different situations and which has universal applicability and understanding. Consequently, regulation may be the best vehicle to provide definitions of wellbeing which link to context – and which take full account of the broad range of available wellbeing measures and indicators.”

Scottish Children's Reporter Administration

“We would welcome legislating wellbeing outcomes rather than a definition. An outcome focused approach to wellbeing would seek to create improvements across the broad range that wellbeing encompasses. If wellbeing is defined in law, we recommend providing a diverse range of examples of what wellbeing looks like in different contexts and to different communities as a useful way of showing the multiple aspects of wellbeing.”

Historic Environment Scotland

“Defining wellbeing as a concept is relatively straightforward, yet translating it into clear legislative terms poses challenges, mainly due to the multitude of subjective and objective factors involved. Achieving common ground on a precise definition may prove elusive given this complexity. Nevertheless, a promising starting point lies in delineating key components such as Societal Wellbeing, Workplace Wellbeing, Social Wellbeing, Physical Wellbeing, and Emotional Wellbeing.”

Royal Botanic Garden Edinburgh

“Wellbeing is a multifaceted concept that is both broadly understood and fundamentally nebulous and contextual: providing a universally accepted definition that is clear and robust enough to be enshrined in law is going to be challenging and we are unclear what the benefit may be...The World Health Organisation and Geneva Charter for Well-being both have a focus on the equitable distribution of resources as the foundation for wellbeing, we would support this and also emphasise that both also recognise that fundamental changes are needed to achieve wellbeing. As the Scottish Government has a commitment to Community Wealth Building it would be good to root any definitions of wellbeing in the pillars of Community Wealth Building to ensure an equitable distribution of resources, particularly land, as the basis for fostering national wellbeing.”

Community Land Scotland

Wider points raised by these respondents, but not to any great extent, include that a non-statutory approach may be more appropriate, as reflected in the following organisation quote.

“Given the breadth of issues that can be encapsulated within the concept, a statutory definition may not be appropriate, and the Scottish Government may instead wish to consider whether it would instead be more appropriate to include a broad definition in guidance. A definition that builds on the concept of collective wellbeing, as set out by Carnegie UK, would be a good starting point.”

Institute for European Environmental Policy UK

A similar viewpoint is expressed by consultation respondents who do not think a statutory definition of ‘wellbeing’ is required (see **Theme 3** on the page below).

Further, Scottish Community Alliance consider it important that there are not any unintended consequences arising from new statutory requirements/definitions, as reflected in the following extract from their submission.

“Poorly framed or overly prescriptive definitions might have negative impacts on key legislation such as the 2003 and 2016 Land Reform Acts. Statutory requirements placed on public authorities may be delivered by cascading additional duties onto suppliers and clients, including the third sector, rather than effecting change within the public authorities themselves. Our greatest concern, however, is that the major obstacles to achieving the objectives of the proposed bill are not statutory but cultural.”

Scottish Community Alliance

Theme 3: Consultation respondents who do not express support for a statutory definition of ‘wellbeing’

Consultation respondents who responded that a statutory definition of ‘wellbeing’ is not required at Question 1 (mainly individuals followed by public sector organisations) typically raise points including that:

- wellbeing is an inherently difficult and complex concept to define – this is reflected in comments and phrases such as ‘nebulous’, ‘means different things to different people’, ‘too vague a concept’, ‘will always relate to an individual’s subjective experience within a particular context’, and it is a ‘multi-dimensional construct’
- if wellbeing is enshrined in law, then it could be constrained by this definition – this is further reflected in comments such as ‘things may change and there must be the flexibility’ to keep the definition up-to-date, ‘potential effect of limiting responses/interventions to unique local issues and challenges’, ‘a relative term and its meaning can change over time’; ‘a single definition risks reducing and restricting it’, and ‘it may erode community or place-based voices’
- a non-statutory approach may be more appropriate – for example, ‘a policy document would suffice’ or ‘an effective scoping, option appraisal and engagement approach’
- they do not see the added value in wellbeing being defined in legislation as a standalone concept – a suggestion is that the upcoming Human Rights Bill which sets out to incorporate treaties (for example, social, environmental, and democratic rights) could offer a preferred framework

The (selected) organisation quotes reflect some of the points raised by these respondents.

“We support the comments made by LINK and Stop Climate Chaos Scotland and propose that the priority focus initially should be on developing an agreed and consistent definition on wellbeing and that a statutory duty should be placed on Scottish Ministers to publish a policy statement on wellbeing.”

Keep Scotland Beautiful

“Wellbeing is notoriously difficult to define. The concept of wellbeing refers to an assembly of intersectional criteria within a matrix of domains relating to the physical, mental, social, and cultural aspects of lived experience. It could be argued an attempt to define wellbeing will at best be inadequate, and at worst wrong, given the intersectional complexity of lived experience and that there are no precise boundaries for the concept of wellbeing.”

Aberdeen City Council

“Defining wellbeing in legislation could have the potential effect of limiting responses/interventions to unique local issues and challenges. Practitioners and policy makers instead should focus attention on clearly understanding the issues and required outcomes, then responding to those following an effective scoping, option appraisal and engagement approach. In our view a focus on establishing good practice to achieve required outcomes is more beneficial than a focus on definition.”

Scottish Futures Trust

“Wellbeing is contextual to different communities and if defined in legislation, it would need to be flexible enough to allow government and public bodies to contribute in their unique way. It must balance the need for clarity with the need for it to be specific enough to be meaningful. A legislative definition could be reductive and inflexible, definitions are also frequently contested, and perspective will change over time.”

South of Scotland Enterprise

“The exercise of defining wellbeing is complex, primarily because it is a relative term, and its meaning can change over time. Trying to define it as a standalone concept is difficult. The difficulties can come from trying to put aspirational policy goals and standards into the format of legislation and law. Researchers have commented that: ‘Many attempts at expressing its nature have focused purely on dimensions of wellbeing rather than one definition.’ Definitions can be too broad or fuzzy and end up losing meaning. Wellbeing is a multidimensional construct.”

Children and Young People’s Commissioner Scotland

Event summary – defining ‘wellbeing’

A statutory definition of ‘wellbeing’ would be beneficial

Some event attendees agree that a statutory definition of ‘wellbeing’ would be beneficial. Views expressed include that this could:

- provide clarity to public authorities

- make the term ‘wellbeing’ less open to interpretation
- hold public bodies to account in working towards wellbeing objectives
- provide clarity to the public, including around the role of the proposed Future Generations Commissioner

There are challenges in defining ‘wellbeing’

Event attendees identify a range of challenges in defining ‘wellbeing’ in a single statement. Points raised include that:

- the concept is multi-dimensional - wellbeing means different things to people and to organisations, and is dependent on context
- there is a risk that a definition is too narrowly or rigidly defined – flexibility is critical as wellbeing changes over time, and in an ever changing society
- there is a risk that a definition is too broad or vague – people and organisations may not see its relevance to them personally or to their work
- any statutory definition of wellbeing should not infringe on, or negatively impact, existing legislation and/or definitions of wellbeing (for example, GIRFEC and SHANARRI)

Viewpoints expressed by event attendees on how ‘wellbeing’ could be defined in legislation include that it could:

- be clear whether the definition relates to personal wellbeing versus collective wellbeing for current and future generations to avoid any ambiguity
- be considered within the context of wider terminology, for example, a wellbeing economy
- reflect the wider determinants of wellbeing, as well as intergenerational approaches to wellbeing
- reflect a Scotland and global outlook to support comparative analysis

Alignment with existing definitions of ‘wellbeing’

Event notes refer to the relevance of the NPF as Scotland’s wellbeing framework – it is considered adaptable and not overly prescriptive. There is also reference to existing definitions of wellbeing such as WHO, OECD, and GIRFEC/SHANARRI. Ensuring alignment with globally accepted definitions of wellbeing and/or adopting or amending them in some way to better reflect Scotland’s context is considered important.

4. Defining sustainable development

Introduction

This chapter presents the analysis of the consultation responses to the five questions asked within the ‘Defining sustainable development’ section of the consultation.

Question 3

Table 4.1 presents the quantitative response to Question 3 which asked, ‘Is a statutory definition of ‘sustainable development’ required?’. Points to note include:

- around two-thirds all consultation respondents (67%) agree that a statutory definition of ‘sustainable development’ is required
- a sizable proportion of all consultation respondents either ‘don’t know’ or left the question unanswered (22% combined), primarily organisations, including public sector bodies
- the remainder of all consultation respondents said that a statutory definition of ‘sustainable development’ is not required (11%), primarily individuals

Table 4.1: Is a statutory definition of ‘sustainable development’ required?

Respondent type	Yes	No	Don’t know	Not answered
Organisations	66%	6%	10%	18%
- Public sector	58%	9%	11%	22%
- Third sector	71%	3%	12%	15%
- Membership body	73%	5%	9%	14%
- Private sector	83%	0%	0%	17%
Individuals	68%	21%	8%	3%
Total	67%	11%	9%	13%

N=180 (117 organisations and 63 individuals)
Percentages may not total 100% due to rounding

Question 4

Table 4.2 presents the quantitative response to Question 4 which asked, ‘Do you agree with our proposal that any definition of sustainable development should be aligned with the common definition: ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’?

Table 4.2: Do you agree with our proposal that any definition of sustainable development should be aligned with the common definition: ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’?

Respondent type	Yes	No	Don't know	Not answered
Organisations	45%	20%	13%	22%
- Public sector	45%	18%	9%	27%
- Third sector	41%	18%	24%	18%
- Membership body	45%	27%	9%	18%
- Private sector	67%	17%	0%	17%
Individuals	67%	27%	5%	2%
Total	53%	22%	10%	15%

N=180 (117 organisations and 63 individuals)
Percentages may not total 100% due to rounding

Points to note include that:

- around half of all consultation respondents agree (53%) with the Scottish Government proposal that any definition of sustainable development should be aligned with the common definition: ‘development that meets the needs of the present without compromising the ability of future generations to meet their own needs’ - more individuals are likely to agree with the proposal than organisation respondents
- relatively similar proportions of all remaining consultation respondents either responded ‘no’ to the proposal (highest among membership bodies), selected ‘don’t know’, or left the question unanswered (highest among public and third sector organisations)

Question 5

Around 80% of all consultation respondents answered Question 5 which asked, ‘Do you have any other views on how ‘sustainable development’ can be clearly defined in legislation’?

Responses do not all directly relate to Question 5.

Rather, some respondents provide a rationale for how they answered the previous questions (Question 3 and Question 4). These respondents often provide further explanation as to why they agree, disagree, or are unsure about whether a

statutory definition is required, and/or with the Scottish Government proposed definition of sustainable development.

Theme 1: Is a statutory definition of ‘sustainable development’ needed

Many consultation respondents feel that a statutory definition of ‘sustainable development’ is needed. Feedback includes that:

- despite sustainable development being widely reflected in policy, for example, Climate Change (Scotland) Act 2009, a statutory definition could help ‘embed sustainable development principles firmly into legislation and decision-making processes’
- it is some time since the concept of sustainable development was adopted, and it means ‘many things to many people’ resulting in ‘considerable room for interpretation.’ - this can make ‘effective implementation and monitoring challenging’, and make it ‘particularly difficult for wider stakeholders to recognise if legislation is relevant to their specific area of work’
- a statutory definition could help ‘form the basis for duties placed upon public authorities’ and help ‘determine the scope of the legislation and guide how this is interpreted in wider policy’ – this could help policy representatives from relevant sectors fully understand and advocate for their contribution to this agenda
- a statutory definition could help to ensure the public sector duties are ‘clearly defined, actionable, and accountable’ – thereby providing consistency and clarity, and supporting a unified approach to sustainable development in Scotland
- without a statutory definition of sustainable development, decisions may be inconsistent and ‘focus on economic and short-term gains rather than long-term ecologically sustainable solutions’
- a clear, overarching statutory definition could provide the ‘basis for action by the public sector and other bodies, and could provide consistency and certainty’ for the public sector and for the general public
- a statutory definition could help ensure ‘duty bearers and the public are clear about what sustainable development means in practice’

While not mentioned to any great extent, the title of the legislation is mentioned in a few consultation responses, as reflected in the following organisation quote.

“Whilst we believe it is necessary to define sustainable development in law, we are not wedded to this term being included in the title of the legislation. There is a strong case for using the term ‘Future Generations’ which would clearly link the Act with the Commissioner, potentially inspire more widespread understanding and support, and avoid the duties of the Act being implemented by silo-ed sustainability staff/departments.”

Scotland’s International Development Alliance

A few respondents advocate for the ‘inclusion of principles’ in addition to the statutory definition to help ‘clarify further how sustainable development should be implemented.’

Potential principles identified by EAUC and other organisation respondents who provide similar responses in their submission (for example, Scotland’s International Development Alliance, Scottish Women’s Budget Group, Scotland CAN B) include:

- human or social-ecological wellbeing instead of economic growth as the core societal objective
- enhancing ecological and planetary systems through regenerative approaches
- prevention – focusing on early action rather than just reacting to problems
- intra- and inter-generational equality and equity – to meet the needs of present generations without compromising the ability of future generations to meet their needs
- interdependence and indivisibility across public policy, meaning that policies are inextricably linked and require policy coherence for sustainable development in response
- doing no harm internationally and good global citizenship
- evidence-based policy making
- openness and transparency – the availability of information on efforts to achieve sustainable development is vital to engagement and accountability
- participation – to recognise that everyone in society has a role to play in working together to achieve sustainable development

Few consultation respondents note in their response that there may be no need for Scottish Government to introduce new legislation that includes a statutory definition of sustainable development or that they are uncertain. This is reflected in comments which emphasise that:

- the United Nation’s (UN) Sustainable Development Goals (SDGs) are ‘globally accepted and understood’ and ‘widely used in practice.’ - points raised include that: the NPF is aligned to the SDGs; sustainable development is a wide-ranging issue; a new definition may cause confusion; and the value and benefit of defining this further in legislation are not clear
- sustainable development is defined in Scottish Government, [Best Value: Revised Statutory Guidance 2020](#), and restating the definition through additional legislation could likely have a ‘neutral impact for local authorities’
- terminology could be clearly defined through non-statutory documentation in a shorter timeframe - allowing public bodies to respond to policy intent more quickly, and providing flexibility to refine definitions over time
- statutory requirements placed on public authorities may create unintended consequences - examples identified include cascading additional duties

placed on public bodies onto suppliers and clients, including the third sector, rather than effecting change within public bodies; and implications on the use of the concept of sustainable development in other areas of legislation and guidance (for example, land reform is mentioned specifically)

Theme 2: Alignment with existing definitions of sustainable development

Some respondents' express agreement that aligning the Scottish Government proposed statutory definition of sustainable development with that expressed internationally in the UN SDGs is an 'appropriate' and 'sensible' approach.

The main viewpoint expressed in support of this approach includes that it would mean that Scotland's statutory definition of sustainable development would broadly 'align with global legislation and policy on sustainable development,' and 'promote a more interconnected approach between all areas of sustainable development.'

While these respondents and others feel that alignment with the UN SDGs (and with the Brundtland definition – see below) are a 'good starting point,' they often further qualify or caveat their response in some way.

Many respondents suggest that the Scottish Government proposed definition of sustainable development could be widened, refined, or built upon to provide further clarity, guidance, and accountability. These respondents suggest that Scottish Government could use and/or amend/extend other widely accepted definitions of sustainable development (and review other relevant published sources of information) prior to finalising Scotland's statutory definition of sustainable development.

Suggestions include that the Scottish Government could consider:

- the World Commission on Environment and Development: [Our Common Future](#) (also known as the Brundtland Report) (1987)
- the United Nations, Office of the High Commissioner for Human Rights (OHCHR), [Transforming our World: The 2030 Agenda for Sustainable Development](#)
- the [Wales](#) approach which defines sustainable development as a process of achieving defined outcomes (namely, improving economic, social, environmental, and cultural wellbeing) and goals
- the [Canada](#) approach which uses the Brundtland Report definition but which acknowledges that the principle of sustainable development is a continually evolving concept, and sets out a series of basic principles to be considered
- review and alignment with recent and pending legislation, other statutory guidance, and related policy where there is reference to sustainable development - for example, the Planning (Scotland) Act 2019, National Planning Framework 4, community wealth building, human rights, climate change, a just transition and meeting net zero targets, GIRFEC Statutory Guidance (Children and Young People (Scotland) Act 2014, and the

proposed Getting it right for everyone (GIRFE) approach for adults are all mentioned in consultation responses

Theme 3: The Scottish Government proposed definition of sustainable development could be strengthened

Aligned to Theme 2, many respondents feel that changes may be needed to the proposed Scottish Government statutory definition of sustainable development, for example, updating it, strengthening it to be more 'inclusive,' or adapting it to reflect the 'current context'.

In finalising a statutory definition of sustainable development the most common suggestions from these respondents include that Scottish Government could consider and/or make more explicit reference to:

- the primacy of ecological sustainability or living within 'planetary boundaries' – the safe environmental and ecological limits that humanity should strive to remain within
- 'minimising adverse environmental impact and to social stability and equity' and recognising the balance/intersectionality between these
- making clear that 'sustainable development in Scotland is only possible as part of a global movement to sustainability in which we play our part' - and that development in Scotland does not come at the expense of development in other nations
- the regenerative and restorative aspects of sustainability

The consultation responses highlight a set of potential 'principles' in addition to the statutory definition of sustainable development, as described under Theme 1.

Wider suggestions made by respondents, but raised to a lesser extent, include that:

- a statutory definition could be supported by: 'effective guidance on ways of working and how the principles should be operationalised,'; examples of sustainable development to provide better understanding (for example, approaches which incorporate aspects of the UN SDGs); and provision of advice and appropriate resourcing for duty-bearers – to help ensure effective and consistent implementation of the principles and duties
- the agreed statutory definition could support an 'impact assessment approach' that considers the synergies between different dimensions of wellbeing and ensures that plans and policies that benefit one aspect do not have adverse effects on another
- indicative measures of success (or KPIs or criteria) could help organisations to successfully interpret the intent of the new duties within their remit and operations to minimise any ambiguity
- it would be helpful to 'clearly articulate the link, interaction, and synergies between the two principles' of wellbeing and sustainable development (as well as how they differ) – an alternative suggestion made is to have a

‘single, all-encompassing definition that aligns both wellbeing and sustainable development’

- Scottish Government could consider its sustainable procurement duty which requires that ‘before a contracting authority buys anything, it must think about how it can improve the social, environmental and economic wellbeing of the area in which it operates, with a particular focus on reducing inequality’

Some of these respondents then go on to provide details of documents and publications that could provide additional information and context for government in finalising a statutory definition of sustainable development, including:

- those reports identified above (for example, the Brundtland Report)
- Scotland’s International Development Alliance report [Towards a Wellbeing and Sustainable Development \(Scotland\) Bill](#) (2022)
- Stockholm University, Stockholm Resilience Centre, [Planetary Boundaries](#)
- [UNESCO MONDIACULT 2022](#) (Declaration for Culture)
- The future starts in the past: embedding learning for sustainability through culture and community in Scotland - White RM, Kockel U, King B, Leask K, Higgins P, and Samuel A (2023)

Possible wording or phasing extensions to the proposed statutory definition of sustainable development or alternative definitions are also provided. A few (selected) examples of alternative definitions provided by consultation respondents are provided below.

“Sustainable development can be defined as development based on sustainable and equitable use of resources within the context of planetary boundaries, and which supports the capability of present and future generations across the world to meet their needs.”

Wellbeing Economy Alliance Scotland

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

Office of the Scottish Charity Regulator

“Sustainable development can be defined as the development of human societies in ways which do not threaten planetary boundaries, and which equitably support the capability of present and future generations across the world to meet their needs.”

Newcastle University UK SDG Data and Policy Hub

Question 6

Circa three-quarters of all consultation respondents answered Question 6 which asked, 'What future wellbeing issues or challenges do you think legislation could help ensure we address?'.

Theme 1: Future wellbeing issues or challenges

Most consultation respondents feel that the legislation has the potential to help Scotland tackle a wide range of future wellbeing issues and challenges.

The most frequently identified wellbeing issues and challenges noted in consultation responses include:

- reducing poverty, deprivation, and inequality - including due consideration of intersectionality
- improving health and wellbeing - for example: lifestyle; good physical and mental health and wellbeing; access to health and social care; obesity; life expectancy; quality of life
- protecting the environment - for example: addressing the climate emergency, biodiversity crisis, and environmental degradation; protecting the environment; protecting the quality of, and improving access to, green and open spaces
- supporting thriving and vibrant communities - for example: access to community, leisure and recreational activities, facilities, and spaces; reducing loneliness and isolation; inclusive and resilient communities; social connectivity; volunteering; participation in civic life
- tackling housing and homelessness - for example: availability of social housing; affordability; energy efficiency
- education, skills, and employment - for example: quality of education; addressing skills shortages
- supporting business and economy - for example: competitiveness; productivity; quality jobs; fair work; living wage
- infrastructure – for example: resilient, accessible, reinvestment, public interests at the heart of development; public transport; active travel; maintenance; investment
- culture - for example: arts; language; tourism; heritage; behaviour change
- food - for example: food availability; food security; locally grown produce; healthy diets
- water - for example: quality; usage; wastage; greywater; reuse
- respect, protect and fulfil human rights
- enhance and restore trust in democracy

- addressing wider challenges, for example, demographic change and an ageing population, depopulation in rural and island areas, contributing to global justice, artificial intelligence (AI), and technological change

A few (selected) organisation quotes are provided below which highlight related points.

“This question rather highlights the challenge of defining ‘wellbeing’, implying that some aspects may be included, and others excluded. It’s likely that responses to this question will vary, at least to some degree, and be influenced by personal and group experiences through which aspects of wellbeing will be viewed as more or less important, and present more or less risk to the individual, group, or community.”

Aberdeen City Council

“It is difficult to answer this question without reflecting on the challenges currently faced by local authorities in delivering statutory services. Local councils are central to Scotland’s communities and diverse places. There is a real existing challenge in sustaining local services which contribute to core wellbeing as demonstrated by the list below. Future challenges will be about continuing this in the face of unprecedented funding pressures.”

South Lanarkshire Council

“Give organisations the framework (with appropriate mandatory duties) and guidance on best practice (non-statutory), but also the freedom to plot their own path, recognising that one size does not fit all...., and that...what is appropriate for communities or individuals in rural areas may be different from that needed in urban areas.”

Scottish Borders Council

“The issues cannot be addressed in isolation or by only one government department. They require a systemic, cross-government approach. The legislation could help support this by ensuring wellbeing and sustainable development are core focuses across government and beyond.”

Obesity Action Scotland

Theme 2: Wider positive role of the legislation

Some consultation respondents (including public sector organisations) note in their response a range of potential positive effects of the legislation and its ability to address future wellbeing issues and challenges.

The legislation could have the added benefit of:

- placing an increased focus on ‘prevention’ (that is, stopping problems from happening in the first place), and placing it at the forefront of decision-making

- providing an opportunity to support, link, and reinforce the National Outcomes – Scotland’s wellbeing framework, and the way progress towards the UN SDGs is measured
- increasing accountability and driving change in Scotland – protecting the health, economic, and social wellbeing of current and future generations, and the sustainability of the environment and public services
- providing focus and processes for ensuring wellbeing and sustainable development underpin and support effective policy development, action, and monitoring
- embedding an impact assessment approach across the public sector in relation to wellbeing and sustainability – ensuring decisions made by governments and public bodies do not have negative consequences for now or the future
- encouraging organisations to collaborate and take collective action to address long-term societal challenges and the wider determinants of health
- strengthening commitments across government and public bodies to address wellbeing and sustainable development in a more comprehensive and coherent manner

A few (selected) organisation quotes are provided below.

“There is a risk that if any additional asks are made...this could lead to statutory requirements not being met due to a requirement for additional resource at a time of significant budget deficits...cognisance needs to be taken in that changing the law will only go so far. The bigger ambition has to be on cultural and attitudinal change which will come through, collective leadership, clear and consistent messaging, and education.”

South Lanarkshire Community Planning Partnership

“The legislation should ensure that all public bodies are working towards all of the outcomes, not just a select few, recognising their interconnectedness and synergies. The legislation would assist in setting objectives towards achieving all the SDGs, and the linked National Outcomes, equally and ensuring that doing so impacts positively on communities and people’s wellbeing and the environment here in Scotland and globally. It would also ensure to maintain readability between the SDGs and the National Performance Framework to measure progress.”

Wellbeing Economy Alliance Scotland

Theme 3: Legislation may not be the answer

Few consultation respondents (almost all individual respondents), feel that ‘legislation is not the answer,’ or ‘may achieve very little’ in terms of helping Scotland to tackle wellbeing issues and challenges.

Where comments are provided by these respondents, the main points raised are that:

- wellbeing issues and challenges could be addressed through wider policy and existing structures
- new legislation to address wellbeing may cause confusion in an already complex legislative environment
- new legislation may result in additional bureaucracy for public bodies that could hinder progress in tackling wellbeing issues and challenges
- wellbeing should not be legislated other than to protect human rights and freedoms

Question 7

Question 7 states 'We are aware that the term 'sustainable development' has been set out in various legislation of the Scottish Parliament since devolution in 1999, and that careful consideration will need to be given to how any new definition will impact on these'.

Just over half of all consultation respondents answered Question 7 which asked, 'What impact, if any, would the proposed definition have on other areas of legislation'?

Theme 1: There is no single definition of sustainable development set out in Scottish legislation - there is the potential for conflict

Many consultation respondents reiterate support for a statutory definition of sustainable development in Scotland. Common points raised in support of this viewpoint include that:

- there is no single definition of sustainable development currently set out in Scottish legislation
- a lack of a statutory definition of sustainable development can negatively impact the focus or emphasis placed on considering the impact on both current and future generations in decision-making processes and policy delivery

These respondents raise related points which acknowledge that the term sustainable development is used widely in both legislation and policy (for example, across planning, procurement, climate) – and that different terminology may cause 'additional complications' should a new statutory definition of sustainable development be introduced in Scotland.

The following terms are frequently mentioned in consultation responses to highlight the point on different terminology: 'sustainable'; 'sustainability'; 'sustainable economic growth'; 'most sustainable'; and 'act sustainability'.

Further, it is suggested that Scottish Government could consider the potential implications of a statutory definition of sustainable development on the wider framework of legislation. For example, on how any new definition may intersect with and impact on other areas of legislation.

Theme 2: A review of existing legislation and further consultation with relevant stakeholders may be required given the potential for conflicts to arise

Many consultation respondents (public and third sector organisations and individual respondents) suggest that Scottish Government could undertake a review of existing legislation and policy to identify where the term sustainable development is currently used.

Given the widespread use of the term in legislation and policy, these respondents often note in their submission that a statutory definition of sustainable development may result in 'conflicts' with other statutory and policy requirements.

They recommend that Scottish Government could ensure that:

- there is a clear, appropriately framed, and robust definition of sustainable development – but a definition that is sufficiently broad rather than one that is 'overly prescriptive'
- any new statutory definition of sustainable development 'dovetails effectively' with existing references to sustainable development in legislation and policy and mitigates against 'areas of overlap' or 'contradictions'
- there is ongoing communication and engagement with relevant stakeholders as this review/exercise is undertaken
- any 'unintended consequences' of the proposed statutory definition of sustainable development on other areas of legislation are identified and carefully considered - for example, any duty defined within law may filter down to charities and community groups through the procurement of contracts and services
- provisions are made to resolve any such conflicts

These points are further reflected in the (selected) organisation quotes below.

"A review will need to be conducted, if not already carried out, to firstly identify every instance of use of the term 'sustainable development' in existing legislation. An assessment will then have to be made for each case to see if there would indeed be any practical policy impacts."

Social Enterprise Scotland

"The proposed definition of sustainable development seems broad enough that it should not directly conflict with or undermine existing legislation. However, a review should be conducted to identify any potential areas of overlap or contradiction."

Crown Estate Scotland

“Rather than introducing new duties or concepts to existing legislation, a clearer definition of ‘sustainable development’ will generally provide an updating understanding of what that legislation must work towards. In the event that there are specific pieces of legislation where the definition would result in conflicting duties, the Scottish Government should amend the original legislation to bring it in line with the Bill. Where this is necessary, there should be appropriate communication and consultation with relevant stakeholders, particularly those who may be impacted by any change in applicable duties.”

Health and Social Care Alliance Scotland

“Suggest the need for a system-based approach which includes an assessment of the potential impact of any additional requirements before any further expectations are added to the current legislative framework.”

Scottish Futures Trust

“Provisions should be made to resolve any conflicts. This could be pursued on a case-by-case basis, especially where there are prominent conflicts.”

Wellbeing Economy Alliance Scotland

Further, Scottish Borders Council notes in its response that such a review could provide an opportunity for Scottish Government to “simplify and consolidate duties, regulations, and guidance as far as practicable.”

Examples of existing legislation or policy identified across consultation responses that may require considered as part of a wider review to identify use of the term ‘sustainable development’ include:

- Enterprise and New Towns (Scotland) Act 1990
- Land Reform (Scotland) Acts 2003 and 2016
- Climate Change (Scotland) Act 2009
- Equality Act 2010
- Procurement Reform Act (Scotland) 2014
- Community Empowerment (Scotland) Act 2015
- Upcoming legislation on Community Wealth Building, Human Rights, Agriculture and Rural Communities, and Natural Environment
- Curriculum for Excellence, Learning for Sustainability
- Culture Strategy
- Net Zero Public Sector Building Standard

The main point is that Scottish Government could consider how a statutory definition of sustainable development may impact on other areas of legislation, or

where the relationship of the Wellbeing and Sustainable Development Bill to existing legislation is considered particularly important or relevant.

There is reference across these consultation responses to: ensuring alignment; ensuring policy coherence (consistency of public policy, no policy undermines another policy, minimising trade-offs, maximising synergies); amending other existing legislation; or creating an umbrella policy.

“The new law can amend previous legislation to ensure everything is aligned to the new definition.”

Office of the Future Generations Commissioner for Wales

“The proposed definition could be framed in legislation in such a way that it informs and if necessary, supersedes definitions in other legislation.”

Strathclyde Partnership for Transport

“Overall, the proposed definition's emphasis on protecting the natural environment within the context of sustainable development would likely catalyse a comprehensive review and adaptation of existing legislation across various sectors to ensure coherence and alignment with this overarching goal.”

Royal Botanic Garden Edinburgh

“It would seem that some work on whether the definition of sustainable development as proposed would encompass the different uses of the term across legislation since devolution. If the definition proposed could provide an umbrella under which previous iterations of the concept or approach can continue to be affected, then that would make sense. If it cannot provide such an umbrella, then specific areas of prior legislation may need to be amended.”

Scottish Children's Reporter Administration

“We consider it should seek to provide a fresh start that increased policy cohesion and clarity within and across policy sectors.”

NatureScot

“The proposed revised definition and the legislation underpinning it would be best developed as an overarching umbrella policy – similar to Scotland's Economic Policy. This would then require all existing legislative instruments to take full consideration of future generations and their wellbeing, as well as planetary health now and in the future. The proposed bill is thus an important step change in legislation as it would provide a strong legal context for all decision-making in Scotland to consider the wellbeing of future generations and planetary health.”

The Wellbeing Economy Alliance Scotland also suggest that Scottish Government could review Scotland's International Development Alliance report 'Towards a Wellbeing and Sustainable Development (Scotland) Bill' for more details on how 'the definition of sustainable development might impact other areas of legislation.'

Theme 3: Benefits from having a statutory definition of sustainable development

Some consultation respondents suggest that defining 'sustainable development' in new legislation would be beneficial as it could 'provide clarity in the use of the term in other legislation.' Common points raised by these respondents include that:

- it provides an opportunity to look across the various legislation to ensure that a clear and rigorous definition of sustainable development is used
- it could promote alignment and consistency across different areas of legislation by providing a clear and unified understanding of sustainable development
- it could help improve clarity and consistency of delivery of those pieces of legislation that already refer to sustainable development but do not currently define it
- it provides an opportunity to define sustainable development in the current context – as it is some time since the concept was adopted and people's understanding of the term can vary
- it could help ensure that sustainable development principles are integrated into different policy areas, such as environmental protection, economic development, cultural provision, social welfare, and urban planning
- it could assist those with responsibilities and remits to implement the requirements of legislation

Some of the afore-mentioned points are further reflected in the (selected) organisation quotes below.

"Defining 'sustainable development' in this legislation would provide clarity in the use of the term in other legislation. This has the potential to remove inconsistencies in the way the term is used and in legislation implemented across government and public bodies. This clarity could assist those with responsibilities to implement the requirements of legislation."

Scottish Fair Trade Forum

"We believe that the WSD Bill could strengthen existing duties in the Climate Change (Scotland) Act 2009 which requires all Scottish public bodies, in exercising their functions, to act in the way they consider 'most sustainable'. The current requirement in this Act is too open to interpretation at present. The WSD Bill definition and duties could also strengthen implementation of Acts of Parliament which influence

planning and transport infrastructure by ensuring that delivery of projects are planned according to the definitions.”

Cycling UK in Scotland

“If ‘sustainable development’ is defined in this legislation, the definition should aim to provide a clear and unambiguous description of what sustainable development means for duty-bearers, their decisions and remit. It would be helpful to explicitly refer to the existing usages of the term in other legislation in supporting guidance, to clearly establish a framework for applying the principle of sustainable development to decisions made by public authorities....an effective legislative and policy framework will support duty-bearers when considering the synergies and trade-offs between the different ‘pillars’ of sustainable development and promote better outcomes.”

Environmental Standards Scotland

“Clarity on the use of sustainable development instead of ‘growth’ or ‘capital cost’ as a measure of success would be helpful. We need to acknowledge the challenge of perpetual growth as a measure of success in conflict with the need for decision-making to consider impact on future generations.”

Creative Scotland

Theme 4: Having a clear definition of ‘sustainable development’ does not necessarily mean introducing a new duty or legislation

A few consultation respondents (mainly third sector, membership, and public sector organisations, including Wellbeing Economy Alliance Scotland, Scotland Can B, EAUC, Scotland’s International Development Alliance, Equate Scotland, and individuals) note in their response that:

- they are supportive of the development of a clear definition of sustainable development and its consistent application, but are less convinced that such a definition is required in statute
- having a clear definition of sustainable development does not necessarily mean introducing a new duty or concept, but rather properly defining what is already in place across other legislation, in order to improve delivery
- in some cases, public bodies may find duties conflict, based on their founding legislation, once a definition of sustainable development is in place

Aligned to these points, the same respondents feel that the Wellbeing and Sustainable Development Bill could strengthen the existing duty in the Climate Change (Scotland) Act 2009 which requires all Scottish public bodies to, in exercising their functions, act in the way they consider ‘most sustainable’.

A point raised is that this existing duty “has been shown to be not well-implemented, possibly due to the wording of the Act and a lack of parallel capacity building, support and accountability requirements.”

Theme 5: This question is difficult to answer

A few individual respondents note in their response that they feel ‘unable to comment’ or provide an informed view on Question 7 without knowing all the different ways that the term sustainable development is referred to in existing legislation.

Similar points are raised by these individual respondents to themes outlined above, including that:

- it would be important for Scottish Government to understand the extent to which the proposed statutory definition of sustainable development results in ‘clashes’ or ‘conflicts’ on other areas of legislation which refer to sustainable development
- new legislation should require existing legislation that references the term sustainable development to be updated

Event summary – defining ‘sustainable development’

Existing definitions or frameworks are a good starting point but may need strengthened

Event attendees recommend that Scottish Government consider existing accepted definitions of sustainable development prior to finalising a statutory definition for Scotland. For example, Brundtland, UN SDGs, OECD, Wales, Doughnut Economics, and the proposed definition from Scotland’s International Development Alliance are all mentioned in event notes.

Existing definitions may need adapted or expanded as a stronger definition of sustainable development is welcomed. Suggestions include that Scotland’s statutory definition of sustainable development:

- needs to go beyond ‘human need’
- should include reference to ‘not overstepping planetary boundaries’
- could consider how ‘regenerative and restorative plays in’
- should capture ‘prevention’ – it is key to supporting the delivery of wellbeing and sustainable development
- should look to support sustainable development ‘in Scotland and globally’
- should capture ‘fairness and equity’ both now and for future generations
- should be framed using ‘positive and engaging language’ rather than negative language - alignment of language is also mentioned, for example, definition of ‘wellbeing’ talks about outcomes, while sustainable development reflects needs

Other considerations include that:

- there is an inter-relationship between sustainable development and wellbeing - a question raised relates to the appropriateness or helpfulness of having separate definitions for each concept
- there is a risk that sustainable development is too narrowly defined – it needs to be sufficiently broad, but if the ambition/goal is too high level and unrelatable it will not be achievable
- there is also a risk that a narrow definition could ‘inadvertently restrain public bodies’ if the definition is not sufficient broad and open to application
- a statutory definition that can flex is considered important - how to ‘future-proof’ the definition to meet future needs and changing circumstances
- sustainable development is usually linked as environmental without considering the wider impacts (for example, economic, social, cultural)
- the definition needs to be ‘internationally coherent’
- further engagement may be required to ensure the voice of younger generations feed into statutory definitions and framework

Policy coherence

Event notes highlight that sustainability and sustainable development are already embedded into legislation and guidance documents – it is important that a statutory definition does not create any conflicts. Event attendees suggest that a statutory definition of sustainable development in Scotland is coherent with existing (and upcoming) legislation on sustainable development to help drive those forward (for example, Climate Change Act, Human Rights Bill). It is important to consider how any new legislation and duties relate to, link with, and interact with, existing legislation on sustainable development. For example, ‘which of these is following which?’ Wider feedback relates to the importance of policy coherence and guidance around minimising trade-offs and maximising synergies.

Is new legislation the right approach?

Event attendees suggest that a set of guiding ‘principles’ would be beneficial in terms of both sustainable development and wellbeing – a question raised is around whether this needs to be defined in legislation or whether a framework would suffice. Better and improved guidance - guiding principles which cover the broad spectrum of factors that make up a concept such as sustainable development could support a deeper understanding of sustainable development and consistent application. Important to consider whether there are ‘alternative options’ to new legislation, and to ensure that there are no ‘unintended consequences.’

Guidance, support for implementation, and reporting

A statutory definition of ‘sustainable development’: is considered logical; could provide greater clarity and focus; could support a deeper and shared understanding; and could assist from a monitoring, reporting, and auditing perspective. Wider points captured across the event notes, however, emphasise ‘the how’ – greater clarity in terms of the duties to be placed on public authorities,

what is the outcome we are collectively trying to achieve, as well as guidance to support the practical operationalisation of the duties.

Support is expressed for avoiding 'overly prescriptive mandates,' and for the provision of underpinning 'practical guidance' and other support (for example, training, templates, toolkits, sharing of good practice). Implementation needs to be sufficiently resourced, as budgetary and funding constraints can often hinder or compromise delivery, including for public authorities and the third sector who deliver services on their behalf. It is noted that public authorities report to Scottish Government on various statutory duties – a question raised is around whether it is timely for Scottish Government to review and streamline existing duties and reporting requirements. Greater recognition could be given to adopting a more flexible approach which recognises that a 'one-size-fits-all' approach may not be appropriate – 'leave the method up to us – give us support to make decisions and decide routes.'

Further clarification is required on how a statutory definition of sustainable development would be enforced by Scottish Government (for example, would penalties be applied).

5. Strengthening duties for National Outcomes and sustainable development

Introduction

This chapter presents analysis of the consultation responses to the three questions asked within the ‘Strengthening duties for National Outcomes and sustainable development’ section of the consultation.

Question 8

Around three-quarters of all consultation respondents answered Question 8 which asked, ‘How should a legal duty be defined to ensure that public authorities uphold sustainable development and the interests of future generations?’.

Theme 1: Definition of the existing duty related to National Outcomes is not strong enough and there could be better reporting

The Community Empowerment (Scotland) Act 2015 requires all public authorities to ‘have regard to’ the National Outcomes in carrying out their work. Some respondents (mostly third sector organisations as well as public sector) consider the current wording ‘not clear,’ ‘strong,’ or ‘sufficient’ enough for public authorities to deliver on the ambition set out in the National Outcomes.

Further, the wording of the duty is considered too ‘subjective’ which then ‘makes it difficult to know if wellbeing and sustainable development have been fully considered in decision-making processes.’ Reference is made by a few organisations to the [Finance and Public Administration Committee report](#) which concludes “there is still some way to go before the National Performance Framework is embedded in the work of all relevant Scottish organisations.”

An ‘implementation gap’ in the delivery of the National Outcomes is referred to in consultation responses. Support is expressed for improved regular reporting by public authorities on how they contribute to each of the National Outcomes in order to increase accountability, scrutiny, and transparency.

The benefits of having clearer and stronger wording in the duty or having a more explicit requirement to work towards the National Outcomes and sustainable development are identified by some respondents. Point raised include that this could:

- provide greater clarity, consistency, and accountability in delivery of public services across Scotland
- reduce to the extent to which current wording of the duty is open to interpretation
- empower duty bearers to explore and prioritise new ways of working towards a shared agenda

- help to ensure that public authorities take account of, and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes

A few organisation quotes are presented below.

“Lessons should be learned from the Community Empowerment Act and its implementation to ensure that legal duty does not become lost or lip-service. The Community Empowerment Act was well intentioned but again has not led to the real changes that were hoped for. Those that have been able to make the best use of its provisions tend to be from areas of less deprivation giving them the practical and financial capacity to achieve their aims, in essence increasing inequality rather than reducing it.”

Braveheart Industries

“It is important that the Bill strengthens the duties on public bodies to compel them to actively pursue sustainable development and wellbeing. This is required because current duties are not sufficiently clear and coherent to enable effective action on the environmental and social challenges that are impacting the wellbeing of current and future generations. Consideration should also be given to actively promoting this approach across the private sector, given its significant reach and contribution across Scotland. There is currently an implementation gap on what policy wants to achieve and what it delivers, with resulting challenges around scrutiny, accountability, collaboration, and incentives.”

Public Health Scotland

“To help narrow the well documented implementation gap in the delivery of the National Outcomes, the Bill could provide additional requirements for public authorities to ‘regularly publish how they contribute to each of the National Outcomes’ and ‘set out how they support a coherent approach to delivering sustainable development and wellbeing’ as defined in the Bill. It is important that the duties make clear that wellbeing and sustainable development, as expressed in the National Outcomes, become the overarching framework for all policy making in Scotland, effectively sitting above other existing duties and frameworks.”

Wellbeing Economy Alliance Scotland

“This should be accompanied by a requirement for public authorities to set out in each of their plans and programmes how the National Outcomes will be achieved (for example, in local development plans, annual work programmes, local authority corporate plans etc) and supported by a requirement for reporting on National Outcomes within existing public sector reports (rather than creating a separate, siloed sustainable development or national outcomes report). This should apply across all areas of reporting and be integrated within existing reporting duties.”

Institute for European Environmental Policy UK

Some respondents (mostly third and public sector organisations) suggest that the duty could be amended to use ‘more tangible, directional, and affirmative language,’ given the importance of upholding sustainable development and the interests of future generations. Suggestions range from minor wording tweaks to complete rephrasing of the current duty.

Among those consultation respondents who submitted the same or similar responses to Question 8 (and to other consultation questions), the following suggestion is made regarding rephrasing of the duty.

‘We propose to rephrase the duty so that public authorities are required to “promote and deliver sustainable development while protecting the wellbeing of current and future generations ensuring that they take all reasonable steps to support the realisation of the National Outcomes, minimise trade-offs, and resolve policy conflicts in a way that does not undermine sustainable development or the wellbeing of current and future generations.”

Scottish International Development Alliance

The rephrasing proposed by Scottish International Development Alliance is further supported and referenced by several membership and third sector organisations, including Health and Social Care Alliance Scotland, Wellbeing Economy Alliance Scotland, Equate Scotland, Scottish Women’s Budget Group, and Scotland CAN B.

A few other respondents suggest that the wording ‘have regard to’ could be replaced by stronger phrasing such as ‘must have regard to,’ ‘should actively pursue,’ ‘must comply with,’ ‘must contribute to,’ ‘act in a manner that contributes to achievement of the National Outcomes,’ or ‘to further sustainable development.’

Theme 2: There may be challenges and complexities in implementing a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations

As outlined above, there is broad acknowledgement across consultation responses that the wording of the duty as it currently stands could be clearer and stronger to ensure that public authorities take account of, and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes.

Consultation responses acknowledge that there are some challenges and complexities that would need due consideration by Scottish Government. Points raised by these respondents include that:

- a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations should not be overly ‘prescriptive’ – rather, support is expressed for a more ‘flexible’ framework
- the varying size, resources, capability, and capacity of public bodies would need to be considered should a legal duty be introduced
- implementing a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations should be accompanied by supplementary guidance to public authorities
- implementing a legal duty may require additional investment and support for effective implementation and to comply with enhanced legal requirements

A few organisation quotes are presented below.

“It is essential that any legislation is not overly prescriptive and that it allows public authorities to have flexibility in terms of approaches that align with locally identified needs and priorities, inspire creativity and transformation. A set of guiding principles that are aligned with the National Performance Framework and the Sustainable Development Goals would support public authorities to discharge the duty.”

South Lanarkshire Community Planning Partnership

“In the context of a clear duty, we would welcome language which is flexible enough to emphasise that working to the National Outcomes and upholding sustainable development should be central to the work of public bodies, but within each body’s capabilities and resources.”

Creative Scotland

“Public authorities will need the necessary resources, capacity building, and support to fulfil their obligations including training and guidance as well as communications to raise public awareness and understanding of the legal duty, its objectives, and implications.”

Culture Counts

“A potential barrier to the successful implementation of the Bill is through a lack of related support which could lead to the inconsistent adoption of suitable ways of working, ultimately slowing progress. Evidence from Wales found an implementation gap following introduction of the Act, with high levels of support requested. We recommend implementation support be considered and appropriately resourced from the outset.”

Public Health Scotland

“There is, however, significant discontent in the SURF network around the reporting of duties in the public sector. Regeneration officers in local government regularly report to SURF that they feel overburdened by policy reporting pressures, and cite that new priorities, responsibilities and reporting requirements are frequently added to their workload, but departmental resources and capacities remain constant, or are shrinking.”

Scottish Urban Regeneration Forum

A few individual respondents raise a question around how a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations would be enforced by Scottish Government. For example, would fines and penalties be applied to public authorities, where appropriate.

Theme 3: Scottish Government could undertake a review and streamlining of existing duties placed on public authorities

Some organisation respondents (mostly public sector, as well as third sector) call for greater clarity from Scottish Government on how the proposal to have a defined legal duty to ensure that public authorities uphold sustainable development and the interests of future generations would ‘align, fit with, or complement the existing requirements on public authorities.’

There is a request for further clarity on ‘how there would be alignment with emerging legislation or strengthening of existing legislation.’ For example, the proposed Human Rights Bill is referenced in consultation responses.

Points raised by these respondents include that:

- there is wide ranging reference to sustainable development in policy and legislation, and public authorities are subject to many general duties already – it is considered a ‘cluttered’ and ‘confused’ landscape
- any legal duties defined in the Wellbeing and Sustainable Development Bill could be defined in a way that does not ‘add unnecessary nor additional reporting’ requirements on public bodies – related points touch on the current finance and capacity constraints faced by public authorities, and support is expressed for a proportionate approach, including for smaller public authorities
- any legal duties could be defined in a way that ‘strengthens, clarifies, and streamlines existing duties around sustainable development, wellbeing, and the National Outcomes’
- additional investment and support may be required by public authorities to: ensure compliance with enhanced legal requirements; achieve any such streamlining of duties and reporting; and ensure meaningful engagement with the National Outcomes
- Scottish Government could draw on learning from the Wales approach, including on the role, remit, and powers of the Future Generations Commissioner for Wales

- ongoing communication and dialogue with public authorities is recommended on ‘solving challenges that exist in ensuring public bodies can uphold sustainable development and wellbeing principles’

Some organisation respondent quotes are presented below.

“There are a number of pieces of legislation in Scotland which refer to ‘sustainable development’ and transfer a duty to act within them. The Climate Change (Scotland) Act 2009 requires public bodies to act “in a way that it considers is most sustainable”. The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, which amended the Climate Change Act sets out the duties conferred on public bodies relating to climate change – that public bodies must act “in a way that it considers is most sustainable”, and that emissions target setting must consider the “likely impact of the target on the achievement of sustainable development”. However, what these provisions lack to give them sufficient focus is a clear definition of what sustainable development means.”

Children and Young People's Commissioner Scotland

“Our response to this question might be distilled as ‘better duties, not more duties.’ This is not to suggest that a duty which supports the delivery of sustainable development through the National Outcomes is wrong or should not be pursued. Far from it. The Council is supportive of the National Performance Framework as ‘the’ framework for distilling national priorities and monitoring progress.... The problem is that there are many other vehicles too and this leads to a cluttered and confusing policy landscape with duties placed upon public bodies which frequently create tension between central assumptions and objectives and local judgements about the best means of achieving outcomes, as well as conflict in some instances.”

Scottish Borders Council

“The new duties should, therefore, be accompanied by a review and streamlining of existing duties, frameworks and reporting requirements to make sure that they are aligned with wellbeing and sustainable development and eliminate any unnecessary duplication.”

Wellbeing Economy Alliance Scotland

“There is a need to consider the effectiveness of a public body being subject to a plethora of general duties and whether that allows a public body to give any weight to the balancing of these duties against other specific duties and powers in decision-making.”

Scottish Environment Protection Agency

“If it is designed and implemented in a way that streamlines and simplifies the obligations of public bodies then this could be hugely beneficial for reducing the administrative burden and simplifying the red tape that public authorities face. It could instead enable public authorities to more easily consider the needs of future generations in a more holistic way, rather than looking piecemeal at meeting various different obligations and benchmarks.”

Edinburgh Chamber of Commerce

“The Scottish Government would need to provide quality research-based information on what the interests of future generations are so as decisions can take account of these interests. It seems that this Bill is working to an assumption that this is a set of agreed interests yet there is no information to show what these are, and which interests are related to which equality factors and protected characteristics. Without this, good decision-making cannot be evidenced. Local authorities use impact assessments to make decisions and are already bound by duties within climate change legislation – how is this different and how does this add value to what we are already doing?”

Argyll and Bute Council

“Any supplementary guidance should reference the principles and the need for strong collaborative leadership and a whole-system commitment to implementing more sustainable policy and service delivery practices. The Well-being of Future Generations (Wales) Act 2015 would appear to be an example of good practice which could be adopted given that the Act states: ‘any reference to a public body doing something ‘in accordance with the sustainable development principle’ means 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.’”

South Lanarkshire Community Planning Partnership

Further, a few third sector and membership bodies suggest that there could be value in ‘relocating the legal duties related to the National Outcomes from the Community Empowerment (Scotland) Act 2015 into the new Wellbeing and Sustainable Development Bill.’ It is suggested that this could:

- help translate the overarching goals of sustainable development and wellbeing into concrete outcomes for Scotland
- support a more ‘unified approach’ to delivering the National Outcomes
- support greater clarity over the contribution made by different actors towards the delivery of all of the National Outcomes, as a ‘complete wellbeing framework’, rather than particular National Outcomes in isolation

These points reflect that the NPF and National Outcomes are considered a useful tool or framework to assess performance – supported by regular review of National Outcomes to ensure the framework addresses emerging issues, is fit for purpose, and future-proofed. The Scottish Government is currently undertaking a review of the National Outcomes with a new NPF expected to be published in autumn 2024.

A further suggestion is for Scottish Government to adopt similar wording to the Well-being of Future Generations (Wales) Act 2015 – the need to ‘ensure policy coherence in pursuit of the National Outcomes, wellbeing and sustainable development’ is further emphasised.

A further suggestion is that existing duties which relate to sustainable development may need strengthened in other legislation, where sustainable development duties already exist – for example, the Climate Change Act 2009.

Theme 4: Consultation respondents who disagree with a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations

A few respondents, mostly but not limited to individual respondents, are not fully supportive of a legal duty to ensure that public authorities uphold sustainable development and the interests of future generations.

Several points are raised by these respondents, including that:

- it may be difficult to uphold sustainable development and the interests of future generations in the absence of legal or accepted definitions, if financial resources and support are not in place to support effective implementation, or if the legal duty is too prescriptive
- it is important to understand the reasons why current arrangements are not working, and unsustainable practices should be identified and prohibited – it is suggested that support to facilitate and embed behaviour and culture change within government and public authorities may be better than the introduction and enforcement of a new legal duty
- an additional legal duty is not required as these aspects are said to be covered in existing legislation and public authority duties - reference is made to the Public Sector Equality Duty, Fairer Scotland Duty, Climate Change Act, the Community Empowerment Act, and Consumer Duty
- a legal duty is not considered appropriate – a suggestion is that there could be an increased emphasis placed by government and public authorities on community-led working, collaboration, and pooled funding instead
- additional funding for the delivery of public services may be better
- balancing public sector budgets is considered critical

Question 9

Question 9 asked, ‘Whether there are specific areas of decision-making that should be included in, or excluded from, the Bill?’.

Areas of decision-making to include in the Bill

Around half of all consultation respondents (50%) provide a response to the question on what areas of decision-making should be included in the Bill.

Theme 1: All areas of decision-making should be included in the Bill

Many respondents (mostly organisation respondents across all sub-groups) suggest that all areas of decision-making should be included within scope of the Wellbeing and Sustainable Development Bill. These respondents suggest that this would be consistent with the main aim of the Bill to “ensure wellbeing and sustainable development are at the heart of all policy and delivery decision-making” as set out in the consultation paper.

Support is expressed for ‘all areas of public policy’ or ‘all areas of decision-making,’ or ‘all matters related to the public finances and budgets, including taxation/revenue and all public expenditure’ to be set out in the Bill.

Further, if any areas of decision-making are excluded from the Bill, there is said to be a risk of undermining the Bill. These respondents raise various concerns, including that excluding different areas of decision-making from the Bill could:

- undermine the holistic definitions of sustainable development and wellbeing
- undermine the coherence and clarity of the legislation in pursuit of wellbeing and sustainable development and the National Outcomes
- impede effective implementation
- undermine the pursuit of these goals in a joined-up and holistic manner
- impede promotion of cross-sectoral integration by not including decision-making processes that cut across multiple policy areas or ensuring a holistic approach to addressing complex challenges.
- result in a Bill that is not flexible or capable of accommodating emerging issues, opportunities, and changing priorities related to wellbeing and sustainable development
- create increased financial costs, repetitional risks, environmental risks, and public health risks

Similar to previous consultation questions, there is a request from respondents for guidance, resources, and support to help public authorities put this into practice, as well as better reporting of progress and evaluation.

A few organisation respondents, such as Inclusion Scotland, Edinburgh Voluntary Organisations Council, and Oxfam Scotland, support the consultation response from Wellbeing Economy Alliance Scotland presented below.

“We consider that the purpose of the Bill is to define wellbeing and sustainable development, as expressed in the National Outcomes, as overarching goals of decision-making in Scotland and to create the necessary institutions and processes that allow decision makers to pursue

these goals in a joined up and holistic manner. It is therefore important that the Bill covers all areas of decision-making. Moreover, excluding certain areas of decision-making would undermine the holistic definitions of both sustainable development and wellbeing as laid out in our response and the corresponding need to achieve better policy coherence across government in pursuit of wellbeing and sustainable development and the National Outcomes.”

Wellbeing Economy Alliance Scotland

A few other quotes reflective of the points raised are presented below.

“If exemptions are granted within particular areas of decision-making, the purposes of the bill will be undermined. Wellbeing and Sustainable Development as terms, cannot be used ad hoc if they are to guide future policy making and the delivering of the National Outcomes. The bill must be integrated and upheld across all policy making areas.”

Generations Working Together

“All areas of devolved policy- and decision-making should be included (and, by extension, none excluded). This would, therefore, include all the responsibilities of Scottish Ministers and all public bodies carrying out devolved functions in Scotland. This would be beneficial as it provides maximum clarity on the scope of duties. For the avoidance of doubt, the above response includes matters related to the public finances and budgets, including taxation/revenue and all public expenditure. This would ensure that the Bill introduced “a statutory requirement for all future Scottish Governments to align budgets to sustainable development objectives.”

Stop Climate Chaos Scotland

“The Bill should apply as broadly as possible to decision-making in Scotland, covering the full range of public authorities and policy areas that are within the scope of devolved powers.”

Health and Social Care Alliance Scotland

“Since the whole point of introducing a legal duty is to ensure that wellbeing and sustainable development are always taken into account, even in areas where the impact is indirect and easily overlooked, no area should be excluded. Nevertheless, on some matters other considerations will legitimately be entitled to have greater weight. It is not desirable, however, to try to identify these in advance nor to mark out whole sectors, policy areas or processes as “no go” areas for paying heed to wellbeing and sustainable development.”

Individual respondent

“We do not think the Bill should be very specific in terms of including or excluding areas of decision-making. Relevant bodies should be able to judge what is most appropriate for their organisation and be able to retain some flexibility when implementing any new requirements relating to sustainable development. At the same time, we also encourage Scottish Government to foster collaboration and the sharing of best practice between public bodies through existing channels or the creation of specific channels.”

Crown Estate Scotland

“All areas of decision-making should be included. In particular, wellbeing, sustainable development, addressing inequalities and the interests of future generations should be key considerations in all decisions on investment and disinvestment.”

University of Glasgow

“The Bill should encompass all areas of devolved policy in Scotland across national and local Government.”

Public Health Scotland

The Office of the Future Generations Commissioner for Wales shared its experience of implementing similar legislation. In the Well-being of Future Generations (Wales) Act 2015, the areas of decision-making were kept general and supported by the passing of two other Acts related to the environment and land-use planning. They also suggest that health may be another important area to cover.

Theme 2: Specific areas of decision-making that could be included in the Bill

A few respondents (individual respondents and across organisation sub-groups) identify specific areas that could be included in the Wellbeing and Sustainable Development Bill. There is specific reference across these consultation responses to areas where decisions could have ‘significant impacts on wellbeing and sustainable development,’ such as:

- planning and built environment
- health and social care

- community planning
- procurement
- climate change, environment, and biodiversity
- economic development
- public services provision - for example, drug and alcohol, youth services, employability
- inward investment plans
- major development proposals
- education
- culture
- housing
- transport
- social justice

A few organisation quotes are presented below.

“The ability of planners to deliver the National Outcomes could be enhanced by ensuring greater coherence and coordination between the planning system and the National Outcomes. This could be accomplished by embedding the Place Principle within the NPF and the proposed Bill, and by shifting the focus of measuring planning performance towards wider place outcomes and impacts.”

The Royal Town Planning Institute Scotland

“High level strategic decision-making such as the setting of annual budgets and approval of key policies should be included, as well as any proposal for the closure or cessation of existing public services. Additionally, any inward investment plans, major development proposals, and economic development capital programmes, such as City and Region Deals should be subject to the requirements of the Bill.”

Aberdeenshire Council

“The bill should consider local decision-making and how it relates to communities. It should consider local contexts and priorities to ensure that decision-making processes are tailored to the needs and circumstances of different communities, recognising there are regional differences in well-being indicators, environmental conditions, and socio-economic factors which will help to promote inclusive and equitable development.”

Culture Counts

“All decision-making taken by public bodies should be through a lens of equality, wellbeing, and sustainable development. Attention should also be paid to the role of public sector in influencing area-wide developments, regional investments, and regional economic boards.”

South Lanarkshire Council

“Planning – consideration of planning legislation needs to be made and evidence to decide if this needs to be included or excluded from the Bill.”

Argyll and Bute Council

A wider point raised, includes a suggestion that the Bill could include ‘contracts with the private sector’ or could seek to engage the ‘private sector in promoting wellbeing and sustainable development such as in corporate social responsibility, sustainability reporting, green procurement, and incentives for businesses to adopt sustainable practices.’

Conversely, a point raised is that the onus could be on public bodies through their procurement policy and grant making activities, as reflected in the quote below.

“...to ensure any funding progresses the National Outcomes and sustainable development, rather than placing the onus on the charity/private sector undertaking projects funded through the public purse.”

National Trust for Scotland

Areas of decision-making to exclude from the Bill

One-fifth (20%) of consultation respondents provide a response to the question on what areas of decision-making should be excluded from the Bill.

Theme 1: A repeat of points raised earlier

A few individual and organisation respondents reiterate previous points, for example:

- a few organisation respondents disagree that any areas of decision-making should be excluded as this could undermine the Bill, threaten the coherence and clarity of the policy, and impede effective implementation
- a few individual respondents do not support the introduction of new legislation, and simply say that all areas of decision-making should be excluded from the Bill
- there are existing mechanisms through the Sustainable Procurement Duty which legislates for a balance between environmental, social, and commercial considerations in public contracts

An organisation quote is presented below.

“In this procurement context there are aspects of decision-making that should be excluded. There are existing mechanisms through the sustainable procurement duty which legislates for a balance between environmental, social and commercial considerations in public contracts. The weightings apportioned to each is determined by the market and the outcomes required from the procurement exercise. Determination of appropriate weightings are made using tools and guidance published alongside the sustainable procurement duty, including life cycle impact mapping, sustainability test and prioritisation tool.”

Scotland Excel

Theme 2: Specific areas of decision-making that could be excluded from the Bill

A few respondents suggest specific areas of decision-making that could be excluded from the Bill. Various points are mentioned in these consultation responses, typically by single respondents, including:

- matters that are reserved to the UK Government
- anything to do with religion
- budgetary and funding decisions
- third parties receiving funding
- emergency situations and measures, where strict controls, time and limits and monitoring may prove difficult
- regulators and potentially other public bodies set up with a function that involves a relatively narrow policy area
- medical interventions - there is considered to be a difference between a wellbeing need and a mental health issue
- decisions relating to individual lifestyle choices and personal freedoms that do not have significant public policy implications

A few organisation quotes are presented below.

“Day-to-day operational decision-making... including decisions made by minor committees and forums, should be excluded from the Bill specifically. Though all decision-making forums should be encouraged to consider the long term and in-direct implications of any proposals. If the Bill is made applicable to all levels of decision-making there is a danger that this could delay the process and lead to a paralysis of decision-making rather than improved or more considerate decision-making.”

Aberdeenshire Council

“For those public bodies which administer funding to their sectors, we would recommend that third parties receiving funding be excluded. While the public body’s decisions can be subject to the duty, funding decisions are reliant on the applications which are submitted and reflect the needs of the sector. This funding is usually short term in duration and from organisations and individuals which are often small and with limited resources. While many do work across policy areas, it would be difficult to ask them to deliver directly against sustainable development and the National Outcomes, and for those funding decisions to be subject to the duties outlined.”

Creative Scotland

“Regulators and potentially other public bodies set up with a function that involves a relatively narrow policy area should be excluded from the new measures. This would be purely from the perspective of the impact caused by broadening those respective remits.”

Office of the Scottish Charity Regulator

“Specific decision-making or statutory functions of the Care Inspectorate that may come into conflict with the Bill’s proposals might relate to registration or enforcement. Actions taken or decisions made with regard to care services in these areas could be interpreted as not aligned with the National Outcomes and therefore that we have not “had regard to” the National Outcomes. We would argue that these statutory functions should be considered within the context of the Bill.”

Care Inspectorate

Question 10

Around 69% of all consultation respondents answered Question 10 which asked, ‘What issues, if any, may result from strengthening the requirement to have regard to National Outcomes?’.

Theme 1: Public authorities would require additional support and resources

Some consultation respondents (in particular public and third sector organisations) feel that resource, support, training, and advice for public authorities would be required if the requirement ‘to have regard’ to the National Outcomes is strengthened.

A summary of the main points raised include that:

- guidance and training is required to support public authorities with implementation, including guidance on how to resolve any trade-offs and to maximise synergies

- guidance and support to facilitate greater collaborative working is required – across Scottish Government internal directorates and to facilitate more collaborative work by public bodies
- defining ways of working to establish a coherent approach to pursuing the duties and outcomes set out in the Bill and guidance on implementation in different contexts would be helpful
- a strong ‘support ecosystem’ is needed to aid public authorities with implementation, measurement, and reporting – and which ‘goes beyond simply imposing duties’
- the proposed Commissioner for Future Generations could have a role to play – advice, capacity building, scrutiny, sharing experiences, and learning

The following (selected) organisation quotes are reflective of points raised on the need for additional guidance, resources, and support.

“While these changes are crucial, they will not be achieved if duties are not accompanied with the relevant support, training and guidance for public bodies, and a streamlined environment of duties and reporting requirements.”

Wellbeing Economy Alliance Scotland

“Strengthening the duty is likely to require education, training and support for public authorities and Ministers at a national, regional and local level and this must be resourced and prioritised if the duty is to have the desired effect.”

National Trust for Scotland

“The legislation through clearer definitions of terms should assist in implementation. Clarity around what is needed in having regard to the National Outcomes should be helpful to public bodies in delivering on their duties.”

Scottish Fair Trade Forum

“It is important to accompany strengthened duties with a comprehensive support ecosystem to aid public authorities in implementation, emphasising the ‘how.’ The other parts of the proposed Bill are an important part of this support ecosystem, including clear definitions, ways of working and a Future Generations Commissioner that can hold public authorities accountable, provide support and build capacity”...Duty-bearers could be supported by new bodies, or existing bodies such as the Sustainable Scotland Network, which might be well placed to take on these additional roles. The latter would be particularly useful in the context of creating more synergies across policy domains and lowering the burden on public bodies if the reporting can also be integrated with existing systems and reports.”

EAUC

“Any proposal to strengthen the requirement to have regard to the National Outcomes should be mindful of the findings of The Crerar Commission with respect to duplicated and over burdensome scrutiny, inspection, and regulation of public bodies...It should be made clear that the economy should not threaten ecological integrity or social equity in Scotland nor at a global level. For economic sustainability to be achieved, decisions must be made in the most equitable, fiscally sound way ensuring the environment and social wellbeing of all people and nature are considered in the long-term.”

Aberdeen City Council

Theme 2: It could result in increased administrative burden on public authorities, create resource implications, and unintended consequences

While some respondents (including all organisation sub-groups) acknowledge the rationale and benefits that could arise from strengthening the requirement to have regard to the National Outcomes, it is also recognised that this may result in increased pressures on public sector bodies.

A concern related to increased administrative work associated with additional or increased reporting requirements is commonly mentioned across these consultation responses. This is particularly pertinent in the context of public authority comments relating to existing workforce capacity and resourcing constraints.

A common point raised by these respondents is that strengthening the requirement to have regard to the National Outcomes could exacerbate existing issues and challenges experienced by the public sector and make it difficult to deliver on without adequate resourcing.

A wider unintended consequence is identified by the third sector – that is, there is a potential risk that additional duties in the form of extra bureaucracy could be passed on by public authorities to suppliers and contractors.

The following (selected) organisation quotes are reflective of points raised by consultation respondents.

“It may increase administrative workload to formally assess wellbeing impacts, but this should lead to better long-term policy making. Clear guidance would be needed on demonstrating regard for the Outcomes.”

Crown Estate Scotland

“One of the potential challenges of making the Bill effective is the additional strain it might put on the stretched capacity of the public bodies subject to the strengthened duties proposed in the Bill.”

Wellbeing Economy Alliance Scotland

“The National Performance Framework is Scotland’s way to localise the SDGs. If appropriately adapted through a co-production process, this framework provides a basis to ensure protection of future generations, wellbeing, and sustainability.

The duty needs to go beyond strengthening the requirement to ‘have regard to’ the National Outcomes and require public bodies to comply with legislation and deliver action to achieve the outcomes.

Progress can be measured by appropriate indicators. The current range of economic, social, and environmental indicators are intended to give a measure of national wellbeing. At present, there is a tension between some outcome indicators, with the economic growth indicator a point of debate.

A strengthened requirement to have regard to the National Outcomes must be proportionate and reasonable and not place an excessive reporting burden onto bodies that diverts resource from meaningful activity to achieve the outcomes.”

University of Glasgow

“In principle these seem sensible proposals which should be supported, but there is little clarity as to what actual benefits they will deliver and there is a risk that local authorities and government agencies will simply pass on additional duties in the form of extra bureaucracy to clients, suppliers and contractors, including the third sector, who are increasingly delivering essential public services.”

Scottish Community Alliance

“While passing this legislation would be a major milestone, the biggest challenge in realising national success lies with scrutiny and accountability. If the public sector is not held to account for its actions in working towards sustainable development and wellbeing it is possible that nothing much will really change. The adoption of Integrated Impact Assessments and associated guidance would help to declutter the number of impact assessments required would help to formalise the decision-making as a transparent process, also helping to drive a new culture across the public sector.”

Public Health Scotland

Event summary - Strengthening duties for National Outcomes and sustainable development

The existing duty related to National Outcomes is not strong enough and there could be better reporting

Event attendees feel that the definition of the existing duty related to National Outcomes (in the Community Empowerment (Scotland) Act 2015) is not strong

enough for public authorities to deliver the ambition of the National Outcomes. The wording ‘have regard to’ the National Outcomes is considered too subjective for effective implementation.

Suggestions include that this wording could be amended to use ‘more positive and tangible’ language – a few event attendees suggest that the wording ‘have regard to’ could be replaced by stronger phasing such as ‘take all reasonable steps,’ (as adopted in Wales), ‘preserve and protect,’ (as adopted in other countries), ‘must consider,’ or ‘have account of’.

Event attendees identify the potential benefits from having stronger wording in the duty or having a more explicit requirement to work towards the National Outcomes and sustainable development. Points include that this could:

- provide greater clarity, consistency, and accountability in delivery of public services across Scotland
- reduce to the extent to which current wording is open to interpretation

There may be challenges and complexities in strengthening duties for National Outcomes and sustainable development

Event attendees identify various issues that could be considered by Scottish Government should duties for National Outcomes and sustainable development be strengthened.

Points raised include that:

- care should be taken to avoid any unintended consequences on the third sector and non-departmental public bodies
- a legal duty should not be overly ‘prescriptive’ – rather, support is expressed for a more ‘flexible’ framework to help future-proof the Bill
- the varying type, size, resources, capability, and capacity of public bodies need to be considered, as well as specialised functions of public authorities
- balance needs to be struck between competing priorities and to minimise any trade-offs (for example, economy and environment, the needs of current and future generations)

Scottish Government could undertake a review and streamlining of existing duties placed on public authorities

Event attendees suggest that Scottish Government could undertake a review and streamlining of existing duties placed on public authorities.

Event notes highlight wide ranging reference to sustainable development in existing and emerging policy and legislation, including the Human Rights Bill and Natural Environment Bill, among others. It is considered critical that the Wellbeing and Sustainable Development Bill:

- aligns with existing and emerging legislation
- does not duplicate existing duties
- does not create an extra layer of complexity to reporting requirements

Public authorities require additional support and resources

Event attendees suggest that supplementary guidance for public authorities is required to support effective implementation of new duties. A concern raised includes that new duties could place an increased administrative burden on public authorities at a time when both resources and capacity are extremely tight.

Training and other forms of support are required, and it is suggested that there could be a role for the Commissioner for Future Generations to embed the necessary behaviour and culture change required across public authorities.

6. Clarifying to whom the duties apply

Introduction

This chapter presents analysis of the consultation responses to the two questions asked within the 'Clarifying to whom the duties apply' section of the consultation.

Question 11

A total of 81% consultation respondents answered Question 11 which asked, 'Should any duty apply to Scottish Government?'.

Theme 1: Duties should apply to Scottish Government

Most respondents (including individuals and across organisation sub-groups) reply 'yes' (or used similar positive terms) to express agreement that any duty should apply widely, including to Scottish Government.

While not all of these respondents further elaborate on why they hold this view, the main points raised across consultation responses include that:

- it is appropriate that Scottish Government 'leads by example' and provides 'strategic leadership.' - it is suggested this could 'generate buy-in across Directorates,' help to 'set the standard' for other public bodies to follow, uphold 'collective responsibility,' and ultimately achieve 'meaningful structural change' and maximise 'impact'
- any duty should apply to Scottish Government in order to 'build on, and strengthen, current duties on Scottish Ministers to take account of, and effectively work towards, wellbeing, sustainable development, and the delivery of the National Outcomes'
- it is appropriate that any duty should also apply to Scottish Government – this recognises that 'the prime responsibility for delivering Scotland's National Outcomes resides with Scottish Ministers,' that Scottish Government sets the national policy direction, and it could help shape policy and delivery decision-making
- the duty should apply to any public body which has a direct relationship with Scottish Government or Scottish Parliament and for which they are responsible (and in part may be funded by national and/or local government)
- it could increase transparency and ensure more effective accountability for the National Outcomes across all areas of government policy and would clearly 'demonstrate the Scottish Government's commitment to wellbeing and sustainable development' - for example, support is expressed for Scottish Government to: publish and review delivery plans; publish regular reports on how they will work towards the National Outcomes; and share good practice

- it could increase the general public's trust in Scottish Government and public bodies

The following (selected) organisation quotes reflect points raised by these consultation respondents.

“Yes. If the duty is to be meaningful it must apply to the Scottish Government.”

Professor Colin T Reid (Individual respondent)

“Most definitely but would need effective accountability mechanisms.”

Peoples Health Movement Scotland

“Yes...If the Scottish Government were exempt from such a duty, that would significantly increase the risk of the government taking the wrong decisions or implementing the wrong policies. It is also important for accountability that the duty explicitly apply to the Scottish Government, as otherwise it will limit the ability of people to seek legal remedy on the basis the government has not accounted for wellbeing, sustainability or future generations when exercising its powers.”

Health and Social Care Alliance Scotland

“Yes, the duties within the Bill should apply to the Scottish Government. It is important they are seen as an exemplar for the Bill and set the standard for others to follow. It is also important for the duties of the Bill to apply to the Scottish Government in order to also cover private sector actors. In order to protect citizens from the actions of commercial actors that damage wellbeing, the government should introduce legislation to regulate these private actors to protect citizens and ensure wellbeing.”

Obesity Action Scotland

“Yes. We consider that it was the clear intention of the Community Empowerment (Scotland) Act 2015 that the duty to “have regard to the National Outcomes” applied to ALL Scottish public authorities including Scottish Ministers.”

Community Land Scotland

“This would be a good way of encouraging wider compliance, particularly if the government were to share the guidance and resources that it creates for the purpose. Once the duties are more clearly defined, we would welcome clarification on whether the duties would apply universally or vary dependent upon the nature of who it is to be applied to. We are an independent regulatory body established by statute. We are therefore not a public body, but we share some of the obligations placed on public authorities.”

General Teaching Council for Scotland

“It is important that duties apply to the Scottish Government as well as public bodies...Duties on the Scottish Government should help ensure that the National Outcomes, and broader ‘National Wellbeing Framework’ in which they sit, becomes a roadmap, rather than a vision, for the Scotland we want to see. When Scottish Ministers are setting new National Outcomes, or revising existing ones, they will have to support meaningful public participation.”

International Development Education Association of Scotland

Other points raised by a few consultation respondents regarding the Scottish Government publishing regular reports on how they will work towards the National Outcomes include that:

- this should be done ‘in a way which is accessible for all the people of Scotland’ (Scottish Children’s Reporter Administration)
- rather than a specific report or statement to Parliament on the achievement of the National Outcomes, ‘which would necessarily fall to a single minister to deliver,’ the Scottish Government may wish to consider how reporting on National Outcomes could be integrated within any and all existing reports or statements (Institute for European Environmental Policy UK)
- there is an opportunity to streamline existing reporting (see full quote below)
- a proportionate approach to reporting on any duty for public bodies is vitally important, in particular for smaller public bodies

“There is a risk, at local authority level, of adding an additional layer of bureaucracy and compliance during a period of budget cuts and reduction in capacity across the public and third sectors and this bill and subsequent secondary legislation must streamline reporting and act as a strategic framework for the different pieces of legislation relevant to one or more pillars of CWB. There must be clear alignment with a future Wellbeing and Sustainability Bill if CWB is presented as the practical means of implementation of a Wellbeing Economy.”

Development Trusts Association Scotland

A wider point raised, but not to any great extent, relates to a call for Scottish Government to consider how any duty could also apply more widely to non-public bodies, as appropriate. The following organisation quote highlights this point.

“Consideration should also be given to how the legislation could be expanded to encourage a meaningful contribution from the private sector to help make this a truly national approach.”

Public Health Scotland

Theme 2: Duties should not apply to Scottish Government

A few individual respondents feel that any duty should not apply to Scottish Government.

No common themes emerged from the qualitative feedback where this is provided.

A few quotes are provided below.

“There is serious confusion in government and ministers about what accountability means and how it works. For instance, it is not clear, in terms of accountability, what will be the result of any failure to achieve National Outcomes. In the absence of this, the concept of accountability is rendered meaningless.”

Wladyslaw Mejka (individual respondent)

“The Scottish Government should ideally opt out of it.”

Jonathan Rainey (individual respondent)

“Scottish Government already aligns to the national outcomes. That must suffice.”

Individual respondent

Other points raised in consultation responses are outlined below.

A few respondents (predominantly individuals and some public sector organisations) do not provide an explicit ‘yes’ or ‘no’ response to Question 11. Rather they provide other suggestions for consideration by Scottish Government, including, for example:

- it could be of greater benefit for Scottish Government to adopt a stronger role in supporting skill and capacity development at a local and national level to develop a greater understanding of what the data is saying and the evolution of good practice (Scottish Futures Trust)
- it could be of greater benefit for Scottish Government to adopt a stronger role in demonstrating the use of key national policies (for example, NPF and Programme for Government), taking a leading role in national practices (Scottish Futures Trust)
- the Scottish Government should be monitoring national progress (individual respondent)

Question 12

A total of 77% consultation respondents answered Question 12 which asked, ‘Do you have any views on the range and type of organisations that any duty should apply to?’.

Theme 1: Any duty should apply to all public bodies

Many respondents (all organisation sub-groups and individual respondents) reiterate points raised earlier at Question 11.

That is, strong support is expressed across these consultation responses for any duty to be applied across a wide range of public sector organisations, including Scottish Ministers, government departments and agencies, local authorities, and other public bodies to ensure they are accountable for promoting wellbeing and sustainable development.

The main messages from the qualitative feedback provided at Question 12 include that:

- any duty should apply to Scottish Government, Scottish Ministers, and all public bodies – there should be no exemptions to ensure transparency and accountability, and to increase trust
- any duty should apply to all public bodies – as they have a direct relationship with Scottish Government or Scottish Parliament and receive funding from public sources
- any duty should apply to all public bodies – as they play an important role and make an important contribution towards delivery of the National Outcomes

The following quotes provide further insight into the points raised on applying duties to all public bodies.

“If we want wellbeing and sustainable development to be at the heart of decision-making, then the duty should apply to all public bodies and Scottish Ministers. It would be useful to provide a definition of ‘public bodies,’ as per the ‘Public bodies in Scotland: guide’, so that it is clear what is meant by a public body.”

National Trust for Scotland

“The purpose of the Bill is to define wellbeing and sustainable development, as expressed in the National Outcomes, as overarching goals of decision-making in Scotland, so it is important the duty should apply across all public bodies in Scotland including Scottish ministers.”

Edinburgh Voluntary Organisations’ Council

“It is expected that the duty would apply to all public bodies who are already delivering intervention and investment aligned with the National Outcomes and in accordance with their devolved duties. However, it would be expected that the duties would need to be applied proportionally to enable flexibility in delivery.”

South of Scotland Enterprise

“We propose that the Bill should follow the definitions of public bodies as laid out in Part 2 Paragraph 6 of the Welsh Wellbeing of Future Generations Act. The duty should give all public bodies the permission, obligation and framework to consider the wellbeing of the young and future generations in all decision-making processes.”

Intergenerational Foundation

Theme 2: Any duty could apply more widely beyond public authorities

Some consultation respondents (a mix of individual respondents and organisations, including but not limited to the public and third sector) feel that consideration could be given by Scottish Government to how any duty could extend beyond public bodies (including Scottish Government and Scottish Parliament) and apply to the third/non-commercial sector and private sector.

While a few individual respondents note in their response that there should be no exemptions, a few third sector organisations are of the view that any duty should not apply to all charities, and that a “voluntary” or “opt-in” approach could be considered to “help leverage expertise, resources, and networks to advance shared goals.”

Points raised in support of any duty extending beyond public bodies to apply to the third and private sectors, include that:

- any duty should apply to all third and private sector organisations that receive public funding and/or who deliver contracts or services on behalf of Scottish Government, its agencies, and local government
- applying the duty only to public bodies may be less effective, as the third and private sectors also influence the achievement of wellbeing and sustainable development outcomes – it is suggested that progress towards achievement of National Outcomes could be slower and more fragmented as a result, not least as “collaboration, partnership, and collective action across different sectors and stakeholders are essential for achieving meaningful and lasting impact in advancing these shared goals”

Limited feedback is provided in relation to size of organisation that any duty could possibly apply to, however, in its response EAUC note that the duty “should also be applied to non-SME businesses as a minimum.”

A few organisation quotes are presented below.

“I think that a duty should apply to the Scottish Government, and all public bodies. I would also like to see some ideas around how it applies to the private sector. In previous Government reports, e.g. the National Strategy for Economic Transformation, there has been some stipulations around working together in Scotland towards creating a wellbeing economy, but this has not been supported with any direction for non-governmental bodies (private and third sector). Even if there were softer measures for the private and third sector, such as simple guidelines or encouragement, this would be helpful.”

Christopher Boyce (individual respondent)

“Placing a duty on public bodies represents only one small part of the whole societal action that will be needed to achieve the desired outcomes...thought needs to be given to a wider application of economic, social, and environmental responsibility across society. For example, is a wellbeing economy simply a product of the conditions created by public bodies, or does it depend on the actions of private businesses and entities, voluntary and third sector bodies, communities etc as well as the public sector? This is not to say that the private or voluntary sectors should be subject to a similar duty, but dealing with broad societal problems must be holistic by definition, supporting the drivers and implementation of desired outcomes across different sectors according to the evidence and policy approaches best suited to those sectors.”

Scottish Borders Council

“Government departments, arms lengths bodies and non-departmental public bodies. Local authorities and health boards and education board -essentially all public bodies, given the scope of the Bill...Opt-in option for relevant national-level charities with a wellbeing or sustainability focus.”

Historic Environment Scotland

“Where possible, the duty should also extend to private and third sector organisations contracted to deliver devolved public functions when carrying out those functions. This could follow a similar approach to Fair Work, whereby tendering and procurement processes are made conditional on adherence to the duty, but where responsibility and accountability for ensuring compliance ultimately lies with the commissioning body.”

Health and Social Care Alliance

“Non-profit organisations, charities, and other groups often play a vital role in promoting well-being and sustainable development through advocacy, service delivery, and community engagement. Encouraging voluntary compliance could help leverage expertise, resources, and networks to advance shared goals.”

Culture Counts

“Care will need to be taken with regard to public authorities/bodies which are charities.”

National Library of Scotland

“Businesses play a significant role in supporting, enabling and delivering on the ambitions of the National Performance Framework, particularly regarding fair work and environmental sustainability. Similarly, as suppliers of products and services to public bodies including Scotland’s colleges and universities, businesses can be supporters and enablers of helping Scotland’s public bodies meeting their wellbeing and sustainable development objectives. Without hard and soft powers to pivot businesses towards fulfilling their potential as actors of the National Performance Framework and supporting public bodies with their objectives, the realisation of Scotland’s ambitions will be slower and more fragmented.”

EAUC

“Given that the duty related to the use of National Outcomes applies to organisations carrying out public functions, clarity should be given on whether a duty to uphold sustainable development also applies to private businesses that are providing public functions. This is especially relevant in STEM sectors that may be providing public works such as civil engineering, construction, or forestry, that are providing relevant services for a net zero economy and just transition and have existing inequities including gender inequalities in their workforce.”

Equate Scotland

Theme 3: Additional duties should not cause an additional burden

A few public sector organisations consider it important that any duty applied to public and/or other bodies or organisations should not result in an additional financial or reporting burden on those organisations. Some support is expressed for a pragmatic and proportionate approach, in particular for smaller organisations.

A couple of organisation quotes which reflect points raised are presented below.

“It is important that any changes do not result in a disproportionate governance implication for some of the smaller public bodies.”

Scottish Road Works Commissioner

“As far as possible any new duty should not add to reporting, but should be integrated into, or replace, existing requirements.”

NatureScot

“Acknowledgement needs to be given to the resource and capacity of public sector bodies to deliver.”

Creative Scotland

“We would agree that it is important for public bodies, and other bodies delivering public services including many third sector organisations, to be accountable to any new duty that arises. However, the success of this in practice will be reliant on the reflection of such duties within existing and future policy and strategic plans, and the provision of sustainable resource to meet said duties...the third sector is not currently being sustainably funded and requires fair funding arrangements to be put in place.”

Volunteer Scotland

“Considering sustainable development all relevant decision-making may not be possible unless public bodies had a clearer understanding of budgets for several years in advance.”

Office of the Scottish Charity Regulator

Theme 4: Do not apply the duty to any organisation

A few individual respondents feel that the duty should not apply to any organisation. Limited qualitative feedback is provided, but points raised include that:

- no organisation should be obligated by this type of duty
- duties set out in this consultation should not be applied

Other points

An alternative viewpoint is expressed by, for example, Scottish Children's Reporter Administration, who say:

“No, that would be for Government to determine based on an assessment of what will be needed in order for them to report accurately against the National Outcomes.”

Scottish Children's Reporter Administration

Some consultation responses highlight the importance of collaboration and partnership working in delivering against the National Outcomes (as outlined above), with a wider point made that:

“Further guidance may be of use in terms of lead agencies/bodies within partnerships in terms of which body takes responsibility in ensuring the duties are met.”

NHS Ayrshire and Arran, Public Health Department

“It may be worth teasing out whether and how individual organisations are responsible for implementing the duty and whether or how these organisations have responsibility when in partnerships, for example, Community Planning or health and social care integration.”

UK Environmental Law Association

Event summary - Clarifying to whom the duties apply

The duties should apply to public bodies, including Scottish Government and Scottish Ministers

There is broad consensus among event attendees that the duties should apply to public authorities in Scotland, including Scottish Government and Scottish Ministers. Views expressed include that:

- this would help to bridge the ‘implementation gap’ in delivery of the National Outcomes - any duties should be supported by regular engagement and reporting on delivery of the National Outcomes (at least biennial) to increase accountability and transparency to stakeholders and the general public
- this would ensure that Scottish Government and Scottish Ministers play a leadership role - legislation on public bodies is difficult to justify if it excludes holding Scottish Government and Scottish Ministers to account

Other organisations to whom the duties could apply to

Different viewpoints are expressed by event attendees in relation to whether the duties could apply beyond public authorities.

On the one hand there is feedback that is supportive of the duties applying to the private and third sectors – for completeness (for full societal representation), and in recognition that other sectors influence and contribute towards the delivery of National Outcomes. For example, private and third sector organisations that receive public funding or who deliver contracts and services on behalf of public authorities. Another example is that parts of the private sector can, through their activities, have a negative impact on collective wellbeing and sustainable development, and should therefore be held to account. Some support is expressed for a fair and proportionate approach to any reporting requirements.

Other event attendees acknowledge that the duties may not apply to the private and third sector, but that it would still be important for Scottish Government to engage these sectors in dialogue at an early stage and on an ongoing basis. Not least, as noted above, these sectors influence and contribute towards delivery of the National Outcomes and provide services on behalf of, or directly to, public authorities. It is important to consider that there may be varying levels of understanding of the NPF and National Outcomes, and some organisations may require additional support should the duties impact on their planning and reporting structures.

Conversely, some event attendees are unsure whether the duties should apply to private and third sector organisations. Feedback includes that:

- a ‘catch-all approach’ may be difficult to implement, particularly where services are delivered by non-Scottish owned or non-indigenous organisations
- it may be better to focus on ‘making it work’ among public authorities before widening the scope of who the duties apply to
- extending the duties to other sectors could be challenging – there may be constrained financial resources and capacity to comply with any additional reporting requirements, in particular among smaller organisations

7. Defining ways of working

Introduction

This chapter presents analysis of the consultation responses to the four questions asked within the 'Defining ways of working' section of the consultation.

Question 13

Two-thirds of all consultation respondents provide a response to Question 13 which asked, 'Do you have any views on how Scottish Government can better report the achievement of wellbeing objectives which supports clear accountability and scrutiny of public bodies in Scotland?'.

Theme 1: Explore ways to improve reporting the achievement of wellbeing objectives

Some respondents (individual respondents and across all organisation sub-groups) note in their consultation response that it is important for Scottish Government to explore ways to better report the achievement of wellbeing objectives.

A point raised is that this could help to hold public bodies, including Scottish Government, to account, and aid learning.

In order to improve reporting the achievement of wellbeing objectives, common points raised include that:

- clear and robust definitions of 'wellbeing' and 'sustainable development' could ensure a shared understanding and clarity of focus among public bodies
- comprehensive and detailed guidance could help ensure a 'consistent' and 'standardised' approach to reporting the achievement of wellbeing objectives among public bodies - it is 'important to establish benchmarks,' 'track performance over time,' and 'understand what has worked, what has not worked and identify possible causes and what needs improving or abandoned in the future'
- enhanced capacity building support to public bodies could enable better reporting on the achievement of wellbeing objectives, and help public bodies comply with reporting requirements - suggestions include 'training on data collection and analysis, reporting methodologies, and communication strategies to effectively convey findings to stakeholders'
- further stakeholder engagement, including with the third sector and communities, may be required to seek 'consensus' on the most appropriate indicators for reporting the achievement of wellbeing objectives - it is suggested that Scottish Government could draw on the Welsh experience, build on the NPF and the Wellbeing Economy Monitor, integrate the Wellbeing Economy Monitor into a reframed NPF, or consider the Carnegie Gross Domestic wellbeing indicator set

- improvements could be made to the accessibility and availability of national and local data - ‘meaningful and robust indicators’ are considered vitally important as is ‘coherent, digestible, and more timely data’
- data accessibility and visualisation could be further enhanced by making information related to wellbeing objectives readily available to the public through ‘publishing data on government websites, creating online dashboards, and providing tools for data visualisation and analysis’
- public authorities could be required to consult with people as part of their reporting process – higher levels of public involvement could ‘yield vital information about whether their actions have delivered the positive outcomes expected under the duty’

A few organisation quotes which reflect points outlined above are presented below.

“Comprehensive and consistent reporting across public authorities is required. This will help avoid a siloed approach so that findings can be compared across sectors and a systematic approach is taken to learning and improvement.”

Health and Social Care Alliance

“Once the definition of wellbeing is clear, it will be more possible to address how best to monitor and report on the delivery of wellbeing objectives. Given the suggestions around the Welsh way of working in this area, perhaps it would be useful to understand how their public bodies are asked to report, to inform the development of a Scotland based approach.”

Creative Scotland

“Baseline data should be provided to public bodies, alongside target outcomes with realistic timescales for delivery, to monitor and review the impact of any new duty or Bill. Any monitoring framework must recognise that required change will take time and enables learning from “failed” policies. Investment in additional resource is critical.”

Aberdeenshire Council

Theme 2: Making best use of existing data and integration of reporting requirements

Some consultation respondents, mainly public sector organisations, feel that improved reporting on the achievement of wellbeing objectives should not become ‘unduly onerous’ or bureaucratic,’ particularly in the context of public bodies existing statutory reporting requirements, and to reduce ‘duplication’ of processes and effort. A proportionate approach to reporting achievement of wellbeing outcomes is considered important to minimise the administrative and reporting burden placed on public bodies, and to ensure resources are targeted at supporting effective implementation of the duties.

The main points raised by these respondents is that Scottish Government could consider:

- drawing on existing datasets and frameworks prior to creating any new reporting framework
- the integration of reporting requirements on wellbeing objectives into existing mechanisms to allow for a more 'holistic approach' to reporting
- undertaking a review of existing statutory reporting requirements to streamline existing arrangements or creating a single reporting framework

A few organisation quotes which further reflect points outlined above are presented below.

"While Scottish Enterprise fully supports the need for clear accountability and scrutiny of public bodies, reporting arrangements need to be proportionate, efficient, and streamlined. To do this we suggest: using existing reporting channels already deployed by public bodies, rather than creating new ones; and embedding reporting as part of NSET performance reporting."

Scottish Enterprise

"While we recognise the value in public authorities reporting on actions to achieve wellbeing objectives, we would encourage any reporting duty to be streamlined with other, existing reporting structures. It is important that authorities remain accountable, but this should be proportionate in terms of resources to ensure the emphasis is on the work carried out to meet duties, not the reporting itself."

Care Inspectorate

"How can existing reporting requirements and indicators be better used and brought together and what can central/national organisations do to support this to ease reporting burdens? Currently a lot of reporting and not always feedback/analysis. In line with Crerar, no new reporting requirements should be developed without serious consideration. There are already frameworks that Scottish Government could draw upon to get an idea of how achievement of wellbeing is progressing, rather than putting pressure on public bodies by creating new reporting requirements."

Improvement Service

“The legislation presents an opportunity to redefine and refine existing statutory planning and reporting duties with a view to simplifying the current landscape and reducing duplication. Current challenges include the increasing volume of statutory reporting; accessibility and availability of national and local data; understanding the cause and effect of interventions; effectively demonstrating change and impact; and measuring whole community wellbeing.”

South Lanarkshire Community Planning Partnership

Theme 3: Regular reporting to Scottish Parliament and to Scottish Ministers and reports made publicly available

Some consultation respondents (primarily third sector and membership bodies) emphasise the importance of ensuring appropriate mechanisms are in place to strengthen the accountability, transparency, and scrutiny of Scottish Government reporting on the achievement of wellbeing objectives.

Suggestions include that:

- more regular reporting to Scottish Parliament could enable regular scrutiny, discussion, and review of the NPF and National Outcomes as a ‘holistic whole’
- reporting could be on an annual or biennial basis
- reporting outside of Parliament could ensure ‘visibility and a ‘sense of ownership’ at all levels – for example, ‘visual and public summaries for the public,’ ‘a report to a Citizen’s Assembly (or similar ‘grassroots’ scrutiny),’ or to the ‘Sustainable Development Commission’

A few organisation quotes are provided below.

“To enable stronger accountability Ministers should be required to report more regularly on progress towards the National Outcomes to parliament, and parliament should be giving ample time to scrutinise these reports.”

Edinburgh Voluntary Organisations Council

“There must be a willingness to look beyond own organisational objectives to what can be achieved through meaningful collaboration with partners...It will be beneficial to ensure that this principle works reciprocally and that partner organisations also report on how they collaborate with NHS organisations.”

NHS Greater Glasgow and Clyde

“Constructive challenge, highlights success and helps to hold the ‘system’ to account. In Wales for example, The Future Generations Commissioner produces an annual report which tracks Government progress, and highlights impact. Something similar to this could be replicated in Scotland.”

Public Health Scotland

“In terms of reporting back to the public, an annual overview of the most relevant elements from the National Outcomes would suffice. It will be necessary for this information to also be available to citizens at the local authority level in a way that is readily understandable to citizens, with relevant example(s) of how the duty has had a demonstrable benefit to citizens. It will be important to have a clear channel of communication for them to communicate any concerns back to public bodies. At both levels, the information needs to be made available to children.”

University of Glasgow

Theme 4: Who could have a role to play in improving reporting and scrutiny of the achievement of wellbeing objectives

Some respondents (largely a mix of third sector and membership bodies) suggest that there could be a role for the proposed Commissioner for Future Generations to oversee Scotland’s progress towards wellbeing and sustainable development outcomes.

This is covered in more detail at Question 18, however, the main points raised by these respondents are that:

- the Wales model and approach works well and could be applied in a Scottish context
- a Commissioner for Future Generations could help ensure a prevention and a long-term focus towards the achievement of National Outcomes
- a Commissioner for Future Generations could monitor and provide independent assessments of Scotland’s progress towards wellbeing and sustainable development outcomes

A few respondents (mainly public and third sector bodies) welcome the focus on ‘ways of working’ set out in the Well-being of Future Generations (Wales) Act 2015 - defined as ‘long-term, prevention, integration, collaboration, and involvement.’

The main points raised by these respondents are that such an approach in Scotland:

- could be set out in legislation to reinforce its importance
- could help embed wellbeing and sustainable development in the decision-making of public bodies

- could encourage less silo working and short-termism
- could encourage more meaningful collaboration with partners in support of wellbeing and sustainable development goals

A couple of organisation quotes are presented below.

“At the national level, the Well-being of Future Generations Act (Wales) requires public bodies in Wales to think about the long-term impact of their decisions, and to work in collaboration with communities and other public bodies to address systemic problems such as poverty, health inequalities, and climate change. Scotland could use a similar model to ensure all public sector bodies maximise their contribution to national wellbeing.”

Zero Waste Scotland

“The Welsh Ways of Working approach set out in the Well-being of Future Generations (Wales) Act 2015, as detailed in Annex I of the consultation document, is a helpful model which could be used as the basis for a similar approach in Scotland. In particular, it is welcome that the Welsh approach outlines prevention and a long-term focus as two of the five overarching sustainable development principles.”

Obesity Action Scotland

“Defining ways of working is unlikely to be sufficient by itself: these requirements may also need to be supported by defining stronger mechanisms for accountability in law, such as auditing and scrutiny of public bodies’ processes although the mechanisms by which legislation can, for example, enforce collaboration are unclear... we question how effective any legislation will be without concomitant structural change: as outlined in the four principles of our Manifesto the achievement of wellbeing and sustainable development requires a fundamental devolution of powers and a reconfiguration of the economy, not performative statements of intent.”

Scottish Community Alliance

Other suggestions put forward by consultation respondents in terms of improving scrutiny arrangements for reporting on wellbeing objectives are captured in the following organisation quotes.

“A sortition-based Citizens Assembly that could be tasked with oversight and scrutiny of wellbeing objectives.”

Common Weal

“The Auditor General provides a valuable role in Scotland and this could be further developed to support, advise and appraise public bodies of the need to take steps to achieve their wellbeing objectives.”

Scottish Futures Trust

“There may be scope to give Environmental Standards Scotland or Audit Scotland a specific scrutiny role.”

NatureScot

“Establish mechanisms for performance evaluation and review to assess progress toward well-being objectives objectively. This could involve independent evaluations, audits, or reviews conducted by oversight bodies, parliamentary committees, or external experts.”

Culture Counts

“Strengthen the role and remit of Community Planning Partnerships as a vehicle for whole systems leadership, planning and public sector reform. Widen its focus on inequality to also include wellbeing and sustainable development. Could Community Planning Partnerships fulfil a ‘self -assessment’ /critical friends, scrutiny role for duties?”

South Lanarkshire Council

Question 14

A total of 61% consultation respondents provide a response to Question 14 which asked, ‘What additional steps are needed to ensure collaboration and working across boundaries?’.

Theme 1: Guidance, resources, and support

Some respondents (primarily public sector organisations as well as third sector organisations) emphasise the importance of guidance, resources, and support to help ensure collaboration and working across boundaries.

Points raised include that:

- legislation could define what is meant by ‘ways of working’ at a high level, and be supported by detailed guidance relating to what is expected by public bodies
- guidance could be provided to public bodies on developing collaboration relationships and working across boundaries – ‘clear overarching goals and principles are essential’
- examples of good practice and action relating to collaboration and working across boundaries could be better promoted and celebrated – ‘to help different sectors visualise what success looks like’
- capacity building support for public bodies would be beneficial, and could include the provision of continuing professional development, tools, and training

- encouraging continued dialogue and relationship-building activities could build trust and strengthen partnerships over time – suggestions include opportunities: for peer learning to share experience, learning and practice; for cross-sectoral dialogue and knowledge exchange to facilitate understanding and collaboration among stakeholders from different sectors, disciplines, and backgrounds; proactive engagement with marginalised or under-represented groups; and for policy-makers, delivery bodies and communities to work together

A wider point raised includes that an independent Commissioner for Future Generations could help to facilitate improved collaboration and working across boundaries whether from a ‘place perspective, or thematic or sectoral need.’

Some illustrative quotes are provided below.

“Our proposed ‘ways of working’:

participation: recognising that everyone in society has a role to play and actively engaging quiet voices that often go unheard

integration: achieving policy coherence for sustainable development by aligning public bodies’ efforts, collaborating and committing to shared learning

long-term: balancing the needs of today with those of future generations

global citizenship: considering the impact of our decisions and doing no harm internationally

prevention: focusing on early action rather than just reacting to problems

openness: enabling engagement and accountability through openness and transparency

evidence-based: making decisions based on the best evidence available.”

Wellbeing Economy Alliance Scotland (and other third sector organisations)

“The experience of the Welsh Government indicates that introducing softer measures such as building networks between public bodies and sharing good practice is valuable alongside any statutory duty.”

Scottish Enterprise

“Guidance and resources to support collaboration and sharing of best practice in relation to methodologies and application to internal decision processes; sharing of data; and ultimately joined-up integrated policy making between public bodies and through partnerships with stakeholders.”

Crown Estate Scotland

“We believe that a combination of defining ways of working in legislation and more detailed non-legislative guidance will be the most effective combination to allow both for stability over time and the flexibility to them over time. We believe that the ways of working will be less effective if they are solely set out in guidance, because there is a risk that they will be changed too frequently.”

Scotland's International Development Alliance

Appropriate resources and support to facilitate and encourage collaboration and cross-boundary working is considered an important part of the solution, as reflected in the quotes below.

“Adoption of a cross-government approach: Siloed national policy can miss opportunities to contribute to a broader set of outcomes, or unintentionally undermine work in other areas. Adopting a proactive cross-governmental approach to designing policy could address this. For example, New Zealand’s wellbeing budget approach defines five long-term wellbeing objectives and proactively removes silos and works cross-government to develop policy. This requires dedicated structures and resource to embed, such as a dedicated team or planning group. Outcomes planning or wellbeing impact assessments (encompassing health, inequalities, and climate impacts) can identify cross-policy contributions and avoid unintended negative consequences.”

Public Health Scotland

“Public bodies have been working in a very difficult environment with a very challenging level of resources available but have by necessity been working together. No additional steps are needed other than an increase in resources to enable more collaboration and working across boundaries.”

Individual respondent

“Invest in capacity-building initiatives to enhance the skills, knowledge, and capabilities of stakeholders involved in collaborative efforts including training. Ensure that adequate resources, including funding, staff, time, and expertise, are prioritised to support collaborative initiatives effectively.”

Culture Counts

“Often people are working on Wellbeing and/or Sustainable Development activities but without full recognition that they are doing so. Improving awareness and communication around the SDGs and the forthcoming Bill should enable better integration.”

Learning for Sustainability Scotland

Theme 2: Scottish Government has a leadership role to play in encouraging collaboration and cross-boundary working

Some respondents (organisations and individuals) feel that Scottish Government could take a proactive leadership role in strengthening collaboration and working across boundaries. The main points raised are that Scottish Government could:

- define 'policy coherence for sustainable development' to ensure a coherent approach to policy making in Scotland
- do more to promote, celebrate, and share examples of good practice in collaborative and cross-boundary working
- co-ordinate and facilitate collaboration working across boundaries, in particular for smaller public bodies who may lack the necessary capacity and resources to make relevant connections

Quotes which illustrate the points raised are presented below.

"We would welcome leadership from Scottish Government to co-ordinate and facilitate working across directorates and policy areas, along with Scottish Government itself working collaboratively and across boundaries internally."

Creative Scotland

"We recommend considering the work done in many third sector organisations setting up awards and celebrating wins – how can this be given more of a platform to inspire and highlight good practice and encourage "through the carrot". If more attention and gravitas is given to good work in the wellbeing and sustainable development space that is already happening, this might motivate, or even positively pressurise, others to follow suit and/or collaborate."

EAUC

Theme 3: Cross boundary working already happens

A few public sector bodies highlight various examples of 'where cross boundary working already happens.'

There is reference across these consultation responses to existing partnership structures, strategic frameworks, and/or pieces of existing legislation, such as:

- Community Empowerment (Scotland) Act 2015
- Community Planning Partnerships
- Regional Economic Partnerships
- City and Region Growth Deals
- Health and Social Care Partnerships
- The Sustainable Scotland Network
- The development of Regional Intelligence Hubs

- Regional Spatial Strategies

A point made is the importance of continued support for, and involvement of, existing partnership structures at a local, regional, and national level to support enhanced collaboration and working across boundaries. It is suggested that this:

- could help to ‘share understanding and lessons and approaches’
- provide a good opportunity to further ‘embed wellbeing and sustainability principles at a regional level, across local authority boundaries’
- continue to ‘encourage good practice’ and ‘cross-boundary projects’
- could help support ‘evidence gathering’

A couple of organisation quotes are provided below.

“There is a need to think about how that duty placed on organisations works in a way to fully embrace community planning partnerships which can be expected to have a central and co-ordinating role in taking forward an agenda, which is by definition cross-cutting.”

Scottish Borders Council

“The City and Regional Deals and the Regional Economic Partnerships have provided both a financial incentive and a data-driven incentive for greater collaboration. Supporting these structures through continued resourcing and focus, including through cross-boundary projects within the National Planning Framework 4, will continue to encourage good practice... As seen with other collaborative structures, it is consistent support and behaviours that see change. This consistency provides certainty to all stakeholders, focusing their efforts.”

Scottish Futures Trust

Aberdeenshire Council also highlight challenges that may exist when considering the potential wellbeing impacts of economic or health related decision-making at a regional level.

“The formation of regional partnerships is an often disconnected and inconsistent landscape, for example in relation to economic development and health and social care. For example, Aberdeenshire is included within the North-east Regional Economic Partnership with Aberdeen City, while the NHS Grampian health board also takes in Moray, which is part of the Highlands and Islands Regional Economic Partnership.”

Aberdeenshire Council

The Improvement Service also note:

“It should be up for regions to identify how they will collaborate and work across boundaries - there is no need for legislation to drive this. Funding and additional capacity in local authorities would help this happen better.”

Improvement Service

Theme 4: A repeat of points raised earlier

A few consultation respondents reiterate points that are captured above. Points raised include that:

- the development of a common or standardised reporting requirement through the Wellbeing and Sustainable Development Bill could help promote collaborative working towards a common goal
- the main obstacles to collaboration and working across boundaries are largely cultural rather than legislative
- a Commission/er could play an important role in promoting the ambition and increasing public/cross-sector support and awareness
- consolidation and alignment is critical to avoid putting added pressure on public bodies and to avoid duplication of processes and reporting
- standardised reporting would be beneficial, including adoption of a common set of KPIs
- open and transparent access to data and information is essential
- monitoring and evaluation mechanisms to track the progress, outcomes, and impacts of collaborative efforts are critical
- a coordinated approach to public engagement is essential to secure buy-in and trust

A few organisation quotes are provided below.

“Collaboration across boundaries would be aided by creation of common objectives or KPIs for related to wellbeing and sustainable development that can be incorporated into the annual operating plans and corporate plans of public authorities, as appropriate.”

Historic Environment Scotland

“Facilitation from Scottish Government, dedicated staff and financial resource can help to develop collaborative projects, which can better deliver the National Outcomes and help to develop long lasting partnerships. This could take the shape of a framework to enable resources to be developed to facilitate networks and enable connections, partnerships, and true co-creation to be delivered.”

Creative Scotland

“There would be benefit in involving people across Scotland in a national conversation that invites the views and perspectives of diverse groups to share their ideas on the concepts of wellbeing and sustainable development. Doing so would not only help to raise awareness of the commitments to come but would also help to ensure trust and the buy-in of people living and working in Scotland.”

University of Glasgow

“Declutter the policy landscape: public bodies face multiple reporting demands and duties on overlapping areas, impeding implementation...Similarly, there is a requirement for organisations to carry out multiple impact assessments on areas that overlap. The legislation provides the chance to audit, consolidate, and strengthen existing impact assessment requirements, ensuring climate, health and socioeconomic inequalities are adequately considered. An integrated wellbeing impact assessment could declutter and strengthen impact, while increasing capacity for action.”

Public Health Scotland

Question 15

Around one-third of all consultation respondents provide a response to Question 15 which asked, ‘Do you have any views on whether any duty related to ways of working could create conflicts with duties currently placed on you?’.

Theme 1: A review or mapping exercise may be required to identify the potential to create conflicts with existing duties

Some respondents (mostly public sector organisations) note in their consultation response that prior to the creation of new legislation and duties related to ways of working for public bodies, Scottish Government could look to undertake a review or a mapping exercise of existing public body duties.

These respondents suggest that this could be with a view to:

- developing a better understanding of how any new duty related to ways of working would impact on, or overlap with, existing legislative duties - for example, Climate Change (Scotland) Act 2009, Public Sector Equality Duty, Fairer Scotland Duty, Best Value statutory guidance, Planning (Scotland) Act 2019, The Child Poverty (Scotland) Act 2017, Scottish Islands Act, in public bodies founding legislation, and with local priorities are all mentioned in consultation responses, among others
- avoiding any potential confusion and/or duplication of reporting
- increasing recognition of how other legislation and existing duties contribute to wellbeing and sustainable development outcomes
- ensuring alignment and complementary with existing duties
- streamlining existing duties

- ensuring harmonisation of reporting metrics and data capture across key legislative and sectoral areas

A couple of organisation quotes which illustrates these points are presented below.

“Before introducing any new duty it will be important to fully understand how the new duties impact / overlap with existing duties and what difference we expect them to make. For example, it is likely that areas such as the Public Sector Equality Duty, or Fairer Scotland Duty would overlap with the proposed new legislation. To make the WSD Bill effective, there is an opportunity, as outlined elsewhere, to audit existing duties, streamline these to free up capacity, and normalise the use of Integrated Impact Assessments to help improve scrutiny and accountability.”

Public Health Scotland

“The burden of reporting on public bodies is already high. It will be important to highlight synergies with existing reporting requirements and develop an integrated, streamlined, and efficient approach to ensure a low-time and resource input data capture mechanism is established where possible.”

University of Glasgow

“In relation to our Community Planning Partnership, our work is currently underpinned by health and inequalities and climate and nature lenses. This duty would further raise critical consciousness of wellbeing and sustainable development and strengthen action and the application of these lenses to the work that we do together.”

South Lanarkshire Community Planning Partnership

The potential for any duty related to ways of working creating conflicts with existing duties may also depend on how ‘prescriptive’ any duty is.

“We foresee no inherent conflicts as the duties but would be concerned if the duty was prescriptive in terms of requiring a particular approach to measurement and assessment including a definition of specific indicators... There is scope for new duties to conflict with each other and we would seek reassurance that all public sector duties are considered by Scottish Government in the whole to ensure consistency and alignment across government departments. Also any additional requirements associated with new duties must be commensurate with the benefits delivered by the duty and the associated administrative burden must be reasonable, particularly when operating in a context of fiscal constraints.”

Crown Estate Scotland

Reducing the potential for conflict could also be achieved...

“As long as the expectations of any new duty are clear, and how delivery of the duty should be prioritised in relation to existing statutory requirements, it should be possible to minimise any conflicts. Current trends in economic development are already moving towards wellbeing considerations and away from solely measuring traditional forms of economic success, such as GVA and land value uplift.”

Aberdeenshire Council

“Extending Wellbeing and Sustainable Development in legislation in a similar way to the South of Scotland Enterprise Act 2019 is anticipated to extend the benefit we have felt to other public bodies. Flexibility is fundamental in this context - collaboration and partnership working, a key component of how public bodies work, is possible where there is flexibility and an opportunity to meet shared goals.”

South of Scotland Enterprise

Theme 2: Any duty related to ways of working could result in increased bureaucracy and an additional reporting burden

A common theme across consultation responses is that any new duty related to ways of working could add a new or additional layer of bureaucracy within public bodies. The main points raised are that:

- public bodies have various existing statutory duties and reporting requirements placed on them as organisations – and they may face capacity constraints (people and resources) in terms of their ability to deal with any additional duties related to ways of working
- accountability mechanisms and reporting for a duty related to ways of working should not be overly onerous or bureaucratic to ensure that resources are targeted at effective implementation of the duties

A couple of respondent quotes are presented below.

“Whilst embedding in primary legislation obligations in respect of ways of working offers greater prominence and security, the need to adapt to the variety of size and functions of authorities and to changing circumstances suggest that this is better handled through statutory guidance. Reporting, however, is a vital feature of any system where clear legal obligations are required, but careful thought should be given to how this will interact with other processes to avoid a plethora of reporting duties diverting effort from actually achieving substantive gains.”

Professor Colin T Reid

“Complexity and burdens associated with the present policy landscape, imperilled council capacities and lack of resources militate against the delivery of a shared agenda.”

Scottish Borders Council

Theme 3: No conflict or it is too early to tell

A few respondents (a mix of individuals and public sector organisations) report that they cannot foresee any conflicts, or that it is too early to tell if any conflicts would be created as a result of any duties related to ways of working.

Illustrative quotes from respondents are presented below.

“No - I work in healthcare, an industry that could serve its' community better through improving wellbeing of future generations, and an industry that also suffers when wellbeing does. I see no conflict.”

Katie Percival (Individual respondent)

“Too early to tell what the impact is on Historic Environment Scotland duties at this stage until the proposed duties and reporting processes are more fully described.”

Historic Environment Scotland

“Without understanding Scottish Government’s plans, it is difficult to advise on what potential consequences may be required from public bodies if additional reporting or wider requirements are introduced on top rules and expectations that already exist.”

Edinburgh Napier University

Question 16

Around 44% of all consultation respondents provided a response to Question 16 which asked, ‘Do you have any views on the additional resource implications necessary to discharge any wellbeing duty in your organisation?’.

Theme 1: Adequate resourcing and support is required

A common theme among some respondents (primarily public sector organisations, but also a few other organisations and individuals) is that effective implementation of any additional wellbeing duties could have ‘resource implications’ for public bodies.

This feedback is often framed in the context of the challenging financial pressures currently experienced by public bodies (for example, reducing budgets, ever growing pressure on discretionary services), and over-stretched resources (both people and finance). Wider feedback is that sustained resources for public bodies to fully enact the legislation should not be ‘under-estimated’ and be ‘realistic.’

Points raised by these consultation respondents include that additional resource may be required to:

- build capacity within public bodies to comply with a wellbeing duty – workforce education and training to ensure organisations have the appropriate skillset, experience, and knowledge requirements to embed a ‘whole systems approach’
- support the administrative efforts/burden associated with implementation and compliance with the discharge of any wellbeing duty (for example, additional staff requirements, resources to support implementation)
- support public bodies to drive forward action or activities to increase wellbeing and sustainability within their organisations and within their remits
- support any additional costs of scrutiny and audit

A few respondent quotes are presented below.

“We would expect any additional resourcing requirements to be considered by Scottish Government as part of the normal budget process.”

NatureScot

“Public bodies may need appropriate funding to support this activity. This was the case during the implementation of the Equality Act 2010, which required dedicated resources.”

Scottish Qualifications Authority

“Currently public bodies are struggling to deliver on their core functions because of a lack of funding and staffing. Any additional duties must come with resource to support its delivery. Too often legislation or policy come out from national government with no additional resource to deliver and services are pulled in too many different directions trying to deliver on the variety of requirements placed upon them.”

Individual respondent

“Evidence from Wales found an implementation gap following introduction of the Act, with high levels of support requested. We recommend implementation support be considered and appropriately resourced from the outset. Like Public Health Wales, Public Health Scotland can play an important role, alongside partners including Local Government, in supporting implementation.... Given the expected level of demand from across the public sector, such support would need to be adequately resourced from the outset to help drive culture change from the outset of the legislation going live. Failure to do so could mean an ambitious piece of national legislation flounders due to lack of direction and no accountability for delivery from public sector organisations.”

Public Health Scotland

“Implementing a wellbeing duty within an organisation could require additional resources including financial resources to fund initiatives to support staff wellbeing, the need for suitably experienced HR staff or access to appropriate legal advice, time and capacity, access to online platforms, infrastructure improvements, improved communications to increase awareness.”

Culture Counts

“While we already undertake wellbeing initiatives across many aspects of our work, any extra duties relating to this would likely have resource implications. We are subject to several new duties, such as those under the Consumer Scotland Act, conditions relating Fair Work, reporting against Net Zero, and the UNCRC Act, and there may be further potential requirements such as any related to the forthcoming Human Rights Bill. Any additional duties would stretch our organisation further. We would almost certainly require additional resource, both in terms of staffing and financially, to be able to discharge such duties. An integrated model of reporting across these duties might help to alleviate capacity challenges.”

Creative Scotland

Further, a risk identified is that the introduction of a wellbeing duty may have a disproportionate impact on smaller public bodies and could create ‘unintended consequences’ on their delivery agents (for example, the third sector is most commonly mentioned).

“There is a risk that a wellbeing duty becomes an additional, and separate, reporting burden for organisations. In particular, where these burdens are passed from central and local government to smaller community organisations and charities this will further impact on their already constrained resources and capacity to deliver projects that improve wellbeing outcomes for people.”

Scottish Futures Trust

“The requirement of contracted organisations to meet wellbeing and sustainable development outcomes – now these kinds of expectations are often not met with sufficiently resourced contracts to ensure delivery. The importance of Fair Work and Fair Funding for the third sector – often at the heart of supporting wellbeing in communities – is linked to this debate.”

Third Sector Interface Network

While support is expressed for a ‘proportionate’ approach, alongside a repeated call for a review of existing duties to ensure an integrated and streamlined approach to reporting, wider points are also raised.

“Local authorities in particular are very limited in capacity and resources so would struggle to meet any additional requirements, particularly if there are any new reporting duties. Scottish Government should think through fully how any duty links to other existing duties to stop that having to be done many times across public bodies in Scotland.”

Improvement Service

“We do not believe that the concept of wellbeing is suitable for statutory definition. Should a statutory definition be established, resource implications would largely depend on the nature of that definition and which duties this then creates for public bodies. Regardless of definition it seems likely that the interpretation of wellbeing would remain subjective and vary from person to person. This could result in “meaning” being tested through courts. Mitigating this risk and responding to challenges could have significant resource implications.”

Aberdeen City Council

“We would suggest that in addition to any financial implications, there may also be issues in the additional capacity or time required to discharge any wellbeing duty.”

Care Inspectorate

South of Scotland Enterprise note that there could be ways to help reduce resource implications associated with a wellbeing duty.

“Noting the ongoing review of the National Performance Framework, and ongoing discussion regarding the development of Regional Intelligence Hubs, there are other areas of activity that could be brought into this discussion to support delivery and reduce potential resource implications. Development of shared Sustainability Appraisals, with flexibility to be applied proportionally and in the context of individual public bodies, will also help reduce resource implications.”

South of Scotland Enterprise

Theme 2: It is too early to tell what additional resource may be required

The only other common theme identified by a few public and third sector organisations is that it is too early to tell what the resource implications of any additional wellbeing duties would be for organisations affected. They suggest that this would depend on several factors, including how any new wellbeing duty is framed and the nature of reporting obligations.

The main points raised by these respondents include that Scottish Government could:

- provide more information and detail on what is expected of public bodies for them to be able to provide an informed view on additional resource implications of a new wellbeing duty
- undertake additional consultation with affected public bodies when drawing up the detail of any new wellbeing duty

A few illustrative quotes are presented below.

“There may be resource and associated cost implications. However, we would want to make such assessment when the full detail of any change was clear.”

Scottish Children's Reporter Administration

“This will largely depend on the nature of reporting obligations and how far any changes in policy or practice can be regarded as due to the wellbeing duty alone as opposed to just a shift in priorities amongst many competing priorities.”

UK Environmental Law Association

“Too early to tell at this stage until the duties and reporting processes are more fully described.”

Historic Environment Scotland

Event summary – Defining ways of working

Guidance and support

Some event attendees request that any new legislative duties and reporting requirements is accompanied by clear and comprehensive guidance, a set of guiding ‘principles’ to support collaborative working (for example, lessons learned from the Wales approach), alongside the sharing of good practice and innovative examples of collaborative and cross-boundary working.

This is to ensure public authorities are clear on what is being asked of them, to help reduce silo working, and to encourage new collaborative approaches, alongside the strengthening of existing networks and partnerships.

Detailed guidance and practical forms of support (for example, training and capacity building support) are required to help public authorities develop the necessary knowledge and skillsets to improve their measuring, monitoring, and reporting on National Outcomes.

Increased resources may also be required to help public authorities comply with new duties and reporting requirements.

Wider points on reporting include that:

- it could go beyond the reporting of outcomes in isolation
- it could include narrative reporting on how outcomes are achieved
- there could be improvements in data accessibility and availability
- some outcomes are inherently difficult to measure - for example, community capacity building

Coordination and streamlining of reporting

Some event attendees note the importance of better coordination of reporting or the possible streamlining of existing reporting requirements. The general feeling among event attendees is that public bodies have various reporting requirements, and this takes up a considerable amount of administrative time and effort.

Exploring ways to help ease the administrative burden is welcomed.

Related points include that:

- many public authorities, such as NHS boards, have their own wellbeing frameworks and care would need to be taken to ensure there is no conflict between existing and any new reporting requirements
- there is potential for conflict between various National Outcomes - for example, wellbeing and economy, and sustainability and value for money
- reporting requirements should be proportionate, including for smaller public authorities

Other considerations

Other considerations identified across the event notes include that:

- any new duties and reporting requirements could focus on the long-term rather than political or financial cycles
- the 'stick' of rigorous reporting and audit processes could be accompanied by the 'carrot' of providing support to help deliver against outcomes
- some public bodies have a broader set of aims that do not fit easily with the reporting and scrutiny framework and can be very siloed – reporting requirements do not always capture the progress and positive work these bodies are doing

8. Determining an approach for future generations

Introduction

This chapter presents analysis of consultation responses to the three questions asked within the 'Determining an approach for future generations' section of the consultation.

Question 17

Table 8.1 presents the quantitative response to Question 17 which asked, 'Should Scotland establish an independent Commissioner for Future Generations?'.

Feedback is mixed, and points to note include that:

- less than half of all consultation respondents (43%) consider that Scotland should establish an independent Commissioner for Future Generations - more organisations than individuals express this view
- 39% of all consultation respondents either 'don't know' or left the question unanswered - this is most prominent among organisation respondents, in particular public sector bodies
- the remainder of all consultation respondents (18%) are of the opinion that Scotland should not establish an independent Commissioner for Future Generations - more individuals express this view

Table 8.1: Should Scotland establish an independent Commissioner for Future Generations?

Respondent type	Yes	No	Don't know	Not answered
Organisations	46%	5%	17%	32%
- Public sector	31%	9%	16%	44%
- Third sector	59%	0%	21%	21%
- Membership body	59%	5%	14%	27%
- Private sector	67%	0%	17%	17%
Individuals	38%	41%	17%	3%
Total	43%	18%	17%	22%

N=180 (117 organisations and 63 individuals)
Percentages may not total 100% due to rounding

Question 18

Around 70% of consultation respondents provide a response to Question 18 which asks the question 'In what ways could an independent Commissioner for Future Generations increase the accountability, scrutiny, and support for decision-making.'

Responses do not all directly relate to Question 18.

Rather, many respondents provide a rationale for how they answered the previous question (Question 17). As an example, these respondents often provide further explanation as to why they consider that Scotland should or should not establish an independent Commissioner for Future Generations or why they are unsure.

From a review of the consultation responses to Question 18 there are four broad themes, and these are considered further below.

Some points raised in consultation responses are cross-cutting and relate to all four themes. An example is that almost all respondents emphasise that existing arrangements and structures could be used (even if a Commissioner for Future Generations is established) for implementation of the Wellbeing and Sustainable Development Bill to be effective.

Theme 1: Establishing a Commissioner for Future Generations is the correct approach

Some respondents reiterate their support for establishing a Commissioner for Future Generations, for the rationale that underpins the introduction of a new Commissioner, and/or identify the benefits that an independent Commissioner for Future Generations could offer Scotland.

This support is reflected in a variety of points raised by these respondents, such as:

- a Commissioner for Future Generations could help ensure government and public bodies take a preventative and longer-term perspective to decision-making (rather than a short-term reactive approach) that keeps the interests of current and future generations at the forefront of policy making
- the interests of future generations are currently not well represented in Scottish democratic processes, and a Commissioner for Future Generations could give a stronger voice to both current/existing and future generations
- a Commissioner for Future Generations could help to hold government and public bodies to account by ensuring they consider the long-term impact their decisions have
- a Commissioner for Future Generations could help facilitate collaboration, joint working, and coherence across the public sector at a national and regional level, including support to multi-stakeholder, cross-sector, and intergenerational partnerships

- the perceived success of the broadly similar approach and role adopted in Wales (and other countries), including the establishment of a highly visible ‘champion,’ ‘guardian,’ or ‘ambassador’ for future generations

Learning from other countries or models (for example, Environmental Standards Scotland and the previous UK Sustainable Development Commission) is considered a sensible approach. Albeit a few respondents highlight some differences that may need further consideration. An example provided is that the title of the legislation in Wales is reflected in the title of the commissioner (that is, Future Generations appears in both), whereas this is not the case for the proposed approach in Scotland (and therefore the title of the proposed Commissioner is questioned).

Many respondents set out the different ways in which an independent Commissioner for Future Generations could increase the accountability, scrutiny, and support for decision-making. These responses are typically framed or caveated in terms of current ‘unknowns’ including:

- what the remit of an independent Commissioner for Future Generations would be?
- whether the mandate for a Commissioner for Future Generations is wider than future generations?
- what powers an independent Commissioner for Future Generations would have?
- the extent to which a Commissioner for Future Generations would be able to hold government and public authorities to account?
- whether a Commissioner for Future Generations would be equipped with adequate staffing and resources to undertake the role effectively?
- how to minimise overlap and/or duplication with existing commissioners?
- how a Commissioner for Future Generations would interact and work together with existing and proposed commissioners and other relevant stakeholders (for example, Scottish Youth Parliament is mentioned in consultation responses)?

Where feedback is provided, respondents suggest that an independent Commissioner for Future Generations could increase the accountability, scrutiny, and support for decision-making, by undertaking a variety of roles such as:

- informing, promoting, and sharing good and innovative practice and lessons learned among public bodies
- knowledge sharing
- an advocacy and influencing role
- thought leadership
- setting and upholding standards
- championing sustainability appraisals

- education and awareness raising of the most pressing issues and challenges, and on the areas of greatest importance and impact
- providing advice, assistance, guidance, templates, tools, and other resources to help public bodies with implementation of any new duties
- carrying out research and supporting policy development
- developing mechanisms to ensure the voices of children and young people are heard and/or to support public bodies to better include these voices in meaningful and participatory decision-making
- complaints handling
- having an auditing or independent scrutiny role or function
- carrying out investigations of public authorities' compliance with the duties, and providing recommendations to public bodies on areas for improvement
- enforcement and intervention
- monitoring, evaluating, and reporting of progress to the Scottish Parliament

Theme 2: Issues for further consideration should a Commissioner for Future Generations be established

Most respondents who answered 'don't know' to Question 17 or who left the question unanswered (as well as those respondents in Theme 1 above) identify a range of issues that may require further consideration by the Scottish Government should a Commissioner for Future Generations be established.

These consultation respondents are in broad agreement, that to be effective and agile, an independent Commissioner for Future Generations would require to have sufficient powers, resources, and independence.

Specific points raised by these respondents are that an independent Commissioner for Future Generations should:

- have a clearly defined role, remit, purpose, and function
- integrate with, complement, and add value to existing activity, and not duplicate activity of existing commissioners or other proposed mechanisms (for example, such as under the Human Rights Bill) - it should be clear where a Commissioner for Future Generations fits into the landscape to ensure a coherent and joined-up approach
- not result in overly burdensome scrutiny, inspection, and regulation of public bodies - for example, broad support is expressed for utilising existing reporting mechanisms where possible (Public Bodies Climate Change Reporting and reporting mechanisms which will be established through the forthcoming Human Rights Bill are mentioned)
- have adequate resources and powers to fulfil its role and remit
- be independent from government and have sufficient authority

A further comment raised by some of these respondents is that public bodies would require additional support to:

- understand and implement the new duties imposed on them by the Wellbeing and Sustainable Development Bill
- equip people working within public bodies with the skills to think long-term
- ensure a consistent approach to monitoring and reporting on progress
- undertake regular reviews of progress to encourage a culture of learning and continuous assessment, as well as to support improvement

Training and other capacity building support is specifically mentioned in these consultation responses as a potential way to help public bodies (that is, staff, elected members) implement any new duties and to embed the longer-term cultural change required to ultimately 'mainstream' wellbeing and sustainable development across all public authorities in Scotland.

Theme 3: Is there a middle ground?

Some respondents are unsure about the need for a Commissioner for Future Generations and raise points related to whether a commissioner is the best way to address issues such as increasing the accountability, scrutiny, and support for decision-making.

These respondents are more open to how this could be achieved.

The main points raised by these respondents include that:

- Scotland has a number of existing commissioners (as well as ombudsman, tsars, regulatory bodies, and inspectorates), and the same objectives could be achieved by strengthening and resourcing existing bodies or commissioners and using existing frameworks
- the role and remit of an existing commissioner could be extended to fulfil the purpose of the proposed independent Commissioner for Future Generations - where existing commissioners/bodies are mentioned in consultation responses, this includes Scotland's Commissioner for Children and Young People, Auditor General in Scotland, Audit Scotland, Scottish Human Rights Commission, and Scottish Public Services Ombudsman
- an expert panel of children and young people could be established
- alternatives could be identified and assessed by Scottish Government prior to finalising an approach
- should an alternative route to a Commissioner for Future Generations be taken forward to provide oversight, the body should be independent of government, adequately resourced, and their duties and powers clearly laid out

A few respondents suggest that further consideration of a 'middle ground' may be appropriate in the context of ensuring a proportionate and cost-effective approach.

Theme 4: There is no requirement for a Commissioner for Future Generations or the case for such an appointment has not been made

Consultation respondents who feel that there is not a requirement for a Commissioner for Future Generations or who said that the case for such an appointment has not (yet) been made by the Scottish Government raise several concerns including that:

- Scotland has several existing commissioners and scrutiny bodies – these respondents suggest that the same objectives and functions could be achieved using existing structures and processes (with due regard for any significant changes to their remit and additional demands on skills, capacity, and resources)
- establishing a Commissioner for Future Generations could create an additional layer of bureaucracy for public bodies, including an additional reporting burden - at a time when public bodies are already experiencing capacity constraints
- a new Commissioner for Future Generations could complicate and confuse the existing scrutiny, inspection, and regulation landscape - these respondents highlight issues such as commissioners being set up in different ways, as well as having different remits and power
- the recent and proposed expansion of commissioners in Scotland is said to have led to ‘under-funding,’ ‘fragmentation,’ ‘duplication,’ and diluting the ‘special’ attention paid to a particular group or issue resulting from - it is felt that these issues can inhibit the ability of commissioners to work effectively
- the cost of establishing and maintaining a Commissioner for Future Generations, including a team of staff to support the Commissioner, is likely to be significant, may not represent best value in the context of reduced public sector resources, and/or may direct limited financial resources away from direct action, from funding other things, or from delivery of front-line services

Further, some of these respondents mention the Scottish Parliament Finance and Public Administration Committee current inquiry – Scotland’s Commissioner Landscape: A Strategic Approach – in their consultation response. Points made include that respondents are responding to this consultation, and that it may be prudent for Scottish Government to carefully consider the findings of this inquiry before reaching a final decision regarding whether Scotland should establish a Commissioner for Future Generations.

Question 19

Around 60% of all consultation respondents provide a response to Question 19 which asked, ‘Are there alternative ways Scottish Government can increase the accountability, scrutiny, and support for decision-making’?

Theme 1: A repeat of views raised earlier

Respondents agree that it is important to ensure clear accountability and scrutiny of public bodies, and to ensure high standards in published reporting.

Where differences in opinion arise within consultation responses is around the best way to achieve this and how to increase the accountability, scrutiny, and support for decision-making.

Many consultation respondents simply reiterate points raised at Question 18 and this is often dependent on how they have answered Question 17. For example:

- respondents who support the establishment an independent Commissioner for Future Generations suggest that: such a role would be an effective and appropriate use of resources; it would help to raise awareness of accountability, scrutiny, and support of Scotland's sustainable development and wellbeing objectives; and legislation is the most effective way to achieve the Bill's aims to strengthen accountability to National Outcomes and deliver better outcomes for people and planet
- respondents who are unsure note that the existing landscape of commissioners and scrutiny bodies could be considered by Scottish Government when developing proposals for a new commissioner, body, or function to ensure any potential synergies, overlaps, or conflicts of functions are taken into account
- respondents who do not think an independent Commissioner for Future Generations is needed (or case not made) suggest that the same objectives could be achieved through existing structures and through existing/forthcoming reporting mechanisms

Theme 2: Alternative approaches to increasing the accountability, scrutiny, and support for decision-making

As described above, some consultation respondents consider it important that Scottish Government review and consider alternative approaches or models to that of a Commissioner for Future Generations prior to making a final decision. This includes some respondents who express support for the establishment of an independent Commissioner for Future Generations at Question 17.

These respondents typically suggest that Scottish Government could consider both statutory and non-statutory approaches.

Suggestions include that the Scottish Government could:

- draw on lessons from previous commissioner roles to improve collaboration and sharing of best practice

- consider the experience from Wales and other relevant countries - as an example, a point raised is other countries do not rely on commissioners alone to achieve these functions, and that advisory councils and commissions representing a wide spectrum of civil society actors, and parliamentary groups and committees are widely employed alongside commissioners or ombudsmen as part of wellbeing and sustainable development governance ecosystems
- explore ways to develop stronger systems – suggestions include: establishing a framework to guide sustainability appraisals undertaken by public bodies; improved impact assessment processes; revised cost/benefit analysis that gives greater weight to environment, equity and future people's wellbeing accompanied by increased, specific 'watchdog' responsibilities for relevant bodies; an intergenerational fairness framework that measures how policy proposals might impact upon future generations in a range of ways; and application of strategic foresight techniques

Another suggestion is that Scottish Government could review the existing evidence base to identify issues, lessons learned, and other possible approaches. The following reports are mentioned in consultation responses:

- [The Crerar Review: the report of the independent review of regulation, audit, inspection, and complaints handling of public services in Scotland](#) (2007)
- [Christie Commission on the future delivery of public services](#) report (2011)
- Locality report [Saving Money by doing the right thing](#) (2014)
- Carnegie UK, [Children's Wellbeing and the Scottish Budget](#) (2020)
- Scottish Parliament, [Tackling Health Inequalities in Scotland](#) (2022)
- the outcome of the [Democracy Matters consultation](#) (2023)
- Scottish Human Rights Commission, [At a Crossroads - which way now for the human rights system in Scotland](#) (2023)
- Wellbeing Economy Alliance, [Failure Demand](#)

The most commonly identified alternative approach identified by these respondents is that Scottish Government could consider:

- using, adapting, or extending the remit of existing structures and reporting mechanisms with due regard for the additional demands on skills, capacity, and resources
- whether an existing public body could take on the duties of the proposed Commissioner as a way to reduce the potential for duplication and create efficiencies

A couple of respondent quotes which reflect points raised are set out below.

“It is important to note, however, that all of these approaches themselves involve resourcing demands. The capacity to undertake scrutiny; support and learning resource development; promotion or voice for this agenda, all come with resource implications regardless of the institutional form they take.”

Wellbeing Economy Alliance Scotland

“While levying duties through the Act on these bodies would avoid the upfront cost of establishing a Commissioner for Future Generations, it would simply pass the financial burden of managing and enforcing new duties to these institutions. Investment will be needed either way.”

Individual respondent

Suggestions proposed by these consultation respondents include that Scottish Government could consider:

- extending and strengthening the duties of Audit Scotland
- how the Auditor General for Scotland role could help with evaluating and encouraging good practice and impact in achieving wellbeing objectives
- the role of the Scottish Public Services Ombudsman
- extending the remit of the Children and Young People's Commissioner Scotland to incorporate the interests of future generations
- mandating accountability to citizens' bodies - for example, citizens' assemblies such as periodic citizens' assemblies or citizen panels
- a formalised Parliamentary process, for example:
 - a specific Minister to ensure integration across government
 - establishing formal links to the Prime/First Minister as a way to guarantee a role in promoting, establishing, and safeguarding wellbeing and sustainable development concerns
 - enhanced scrutiny through the Scottish Parliament committee system (either through a dedicated committee, or a requirement that applies to all committees) - renewed use of parliamentary, cabinet, and official committees could improve collaboration, sharing of good practice and scrutiny
- rationalising existing related planning, monitoring, and reporting duties in order to provide public bodies with clarity of focus and encourage holistic approaches to generating impact - for example, reporting of wellbeing alongside other related policy areas such as corporate parenting, equality, fair work, and children's rights

A few respondents suggest that other public sector bodies could be encouraged to have a similar role within their organisations.

Other alternative approaches identified in consultation responses, but to a lesser extent, can be grouped under the following headings:

Information, data, and reporting, including:

- ensuring availability of quality local and national data to help public bodies appraise activity against National Outcomes and support evidence-based decision-making
- strengthening Freedom of Information legislation in support of more open democracy
- increasing transparency by holding government and public bodies to account through improved monitoring and public reporting of information and data
- establishing mechanisms for evaluating and learning from past decisions and experiences to improve future decision-making processes

Capacity building support, including:

- Scottish Government could explore how it could help support sustained capacity building and resourcing, facilitating collaboration and partnerships to collectively address complex challenges and opportunities - for example, among government agencies, organisations, businesses, academia, and community groups

Other, including:

- providing greater cohesion across activities such as the Regional Economic Partnership Networks, in particular Regional Intelligence Hubs, to create greater impact and value for money

Event summary - Determining an approach for future generations

Support for a Commissioner for Future Generations

Event attendees who express support for the establishment of a Commissioner for Future Generations highlight several benefits of this approach, including:

- improved focus on the future/long-term and delivering against outcomes rather than short-term policy making and decision-making
- leadership and influence – a figurehead who has a ‘helicopter view’ of what is going on
- shaping thinking and showing that the public sector takes these issues seriously
- greater coherence and unity

Common points raised include that a Commissioner for Future Generations should:

- be independent from, and accountable to, Scottish Ministers
- be held accountable through citizens assemblies or similar
- be appropriately resourced
- have sufficient powers to make a difference (some 'teeth') – education, providing challenge, encouragement, support, scrutiny, intervention, enforcement, impartial reporting
- facilitate better public engagement, including conversations with young people

Wider points raised about a Commissioner for Future Generations include that:

- further clarity and detail is required on aspects such as: definition (are they enforcers, advisory, non-departmental public body, parliamentary); scope of the role and duties (important to avoid having to make subsequent changes in legislation to expand the powers); how the person would be selected; number of years the person would be in post (needs to be long enough to make an impact); and cost
- consideration could be given to changing the name to a Commissioner for Wellbeing and Sustainable Development
- Scottish Government could draw on lessons learned from Wales, including guidance, toolkits, horizon scanning, and from other commissioner roles (for example, Active Travel Commissioner, previous Sustainable Development Commissioner)
- a like-for-like approach to that of other countries, such as Wales, may not be what is needed - the commissioner would need to link in with what already exists as Scotland is further on than Wales, and the existing commissioner and public authority landscape in Scotland is also different
- the person would need to follow the agenda of both people and planet, not just human needs
- Public Health Scotland could work to support a commissioner given its reporting requirements

Is there an alternative approach?

Alternative approaches to a Commissioner for Future Generations are suggested, including that:

- the role and remit of an existing commissioner or body could be extended – 'adding a Future Generations angle to others work'? – Audit Scotland and Scottish Human Rights Commission are mentioned but there may be capacity and authority constraints to oversee wellbeing and sustainable development effectively within existing remits

- Scottish Government could explore other alternative approaches and structures that might not need a figurehead role – for example, Environmental Standards Scotland is mentioned
- there could be a role for existing Parliamentary Committees
- such a role could sit within auditors or parliament – but there are mixed views on this
- the role could be carried out by other leaders across the public sector
- the role could be wrapped up in a Human Rights Commissioner as part of the Human Rights Bill

Proliferation of commissioners is widespread in Scotland - but they are not the only answer to these requirements. There is a need for simplification. It is an expensive model even for small offices for commissioners. A concern raised is that we have said 'do we need a commissioner' before fully examining the need and scrutiny in full. Important to consider innovative approaches to provide scrutiny and support, beyond just the commissioner approach. Would the role deliver value for money, is it needed, and is it affordable in the current climate?

Could we turn this on its head and the commissioner is the starting point – could they help us get off the ground, could they be the one to figure out how we move this forward before we get to implementation and delivery. The Commissioner is outside of the system, gets under the skin of it but is our starting not end point.

Another suggestion is to consider 'doing something incrementally' – in recognition that 'the Welsh approach has limitations and challenges, so no response is optimal and guaranteed to be successful.'

Other considerations

Other considerations identified across the event notes include that:

- the findings of the Scottish Parliament's Finance and Public Administration Committee inquiry into the commissioner landscape, looking at whether there is a coherent and strategic approach, may influence the decision
- it is important to define what you are aiming to achieve and the best way to deliver that bearing in mind what is already available and what needs introduced
- opportunities for shared approaches/collaborations with other commissioners could be considered
- it is important to avoid conflict or overlap with other duties - for example, Consumer Duty – and to ensure coherence on the reporting on duties
- public authorities are facing tight financial budgets – any duty needs to be seen to operate in this context
- non-executive bodies and parties, as well as ministerially appointed positions within public bodies, may also help strengthen the duties

Appendix A: Stakeholder events

Table A.1: Stakeholder events held

Date of event (2024)	Number of individuals who attended	Number of public sector organisations	Number of third sector organisations	Total number of unique organisations
16 January	8	4	2	6
16 January	5	4	0	5
17 January	4	3	0	3
17 January	14	12	2	14
18 January	5	3	2	5
18 January	4	3	0	3
23 January	8	3	3	7
23 January	5	1	0	1
24 January	7	-	-	-
25 January	9	6	0	7
30 January	2	1	0	1
30 January	6	5	0	6
31 January	6	5	0	5
31 January	3	3	0	3
1 February	7	3	2	5
1 February	6	5	1	6
Total	99	61	12	77
Total unique individuals and organisations	99	55	11	66

Source: Scottish Government stakeholder event notes

Note: - denotes data gaps

Further, one event is not included in the table as attendee information was not provided.
No private sector organisations attended the events

Appendix B: Consultation response publishing preference

Of the 180 validated consultation responses:

- 80 respondents selected “publish response with name”, including 54 organisations and 26 individuals
- 77 respondents selected “publish response only (without name)”, including 46 organisations and 31 individuals
- 23 respondents selected “do not publish”, including 17 organisations and six individuals

Appendix C: Satisfaction with the consultation

Table C.1: How satisfied were you with this consultation?

Level of satisfaction	Organisations	Individuals	Total
Very satisfied	31%	22%	27%
Slightly satisfied	36%	33%	34%
Neither satisfied nor dissatisfied	19%	24%	21%
Slightly dissatisfied	6%	18%	12%
Very dissatisfied	8%	4%	6%

N=119 (64 organisations and 55 individuals)

Excludes blank responses

Percentages may not total 100% due to rounding

Table C.2: How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?

Level of satisfaction	Organisations	Individuals	Total
Very satisfied	41%	46%	44%
Slightly satisfied	30%	22%	26%
Neither satisfied nor dissatisfied	19%	24%	21%
Slightly dissatisfied	3%	7%	5%
Very dissatisfied	6%	0%	3%

N=117 (63 organisations and 54 individuals)

Excludes blank responses

Percentages may not total 100% due to rounding



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