

# Proposed Wellbeing and Sustainable Development (Scotland) Bill – Sarah Boyack MSP

## Summary of Consultation Responses

This document summarises and analyses the responses to a consultation exercise carried out on the above proposal.

The background to the proposal is set out in section 1, while section 2 gives an overview of the results. A detailed analysis of the responses to the consultation questions is given in section 3. These three sections have been prepared by the Scottish Parliament's Non-Government Bills Unit (NGBU). Section 4 has been prepared by Sarah Boyack MSP and includes her commentary on the results of the consultation.

Where respondents have requested that certain information be treated as “not for publication”, or that the response remain anonymous, these requests have been respected in this summary.

In some places, the summary includes quantitative data about responses, including numbers and proportions of respondents who have indicated support for, or opposition to, the proposal (or particular aspects of it). In interpreting this data, it should be borne in mind that respondents are self-selecting and it should not be assumed that their individual or collective views are representative of wider stakeholder or public opinion. The principal aim of the document is to identify the main points made by respondents, giving weight in particular to those supported by arguments and evidence and those from respondents with relevant experience and expertise. A consultation is not an opinion poll, and the best arguments may not be those that obtain majority support.

Copies of the individual responses are available on the following website: <https://sarahboyack.com/wellbeing-and-sustainable-development-scotland-bill-consultation-responses/>.

A list of respondents is set out in the Annexe.

## Section 1: Introduction and Background

Sarah Boyack's draft proposal, lodged on 13 December 2022, is for a Bill to:

ensure policy development and implementation by public bodies is in line with principles of sustainable development and wellbeing by introducing a duty for public bodies to promote these principles and establishing a Commissioner for sustainable development and wellbeing.

The proposal was accompanied by a consultation document, prepared with the assistance of NGBU. This document was published on the Parliament's website, from where it remains accessible:

<https://www.parliament.scot/bills-and-laws/proposals-for-bills/proposed-wellbeing-and-sustainable-development-scotland-bill>

The consultation period ran from 14 December 2022 to 24 March 2023.

The consultation exercise was run by Sarah Boyack's parliamentary office.

Steps taken to publicise the consultation exercise included the following:

- Details of the consultation exercise were sent to a broad range of organisations including: stakeholders engaged in the promotion of sustainable development and/or wellbeing; trade unions; public bodies including Commissioners and Ombudsmen; and local authorities.
- Articles written by Sarah Boyack were published in *Labour List* and the Scottish Co-operative Party's internal magazine *The Pioneer*. These articles were also promoted via Sarah Boyack, the Scottish Labour Party and the Scottish Co-operative Party's social media channels.
- The Scottish Labour Party and the Scottish Co-operative Party wrote to all members across Scotland to raise awareness of the consultation exercise and encourage participation.
- A press release was issued by Sarah Boyack's office to all major news outlets in Scotland.
- Sarah Boyack conducted a number of visits to communities and businesses across Scotland to promote the proposed bill.
- Sarah Boyack hosted a drop-in event, working lunch and a parliamentary roundtable for MSPs at the Scottish Parliament with the former Future Generations Commissioner for Wales, Sophie Howe. Representatives from stakeholder organisations Carnegie UK, Scotland's International Development Alliance and WEAll Scotland attended the drop-in event.
- Sarah Boyack spoke about the proposed bill at a roundtable event hosted by the Church of Scotland, where she took questions from various religious groups and organisations.
- Sarah Boyack convened a meeting of the Cross-Party Group on International Development which focused on the proposed bill.

The consultation process is part of the procedure that MSPs must follow in order to obtain the right to introduce a Member's Bill. Further information about the procedure can be found in the Parliament's standing orders (see Rule 9.14) and in the *Guidance on Public Bills*, both of which are available on the Parliament's website:

- Standing orders (Chapter 9): <https://www.parliament.scot/about/how-parliament-works/parliament-rules-and-guidance/standing-orders/chapter-9-public-bill-procedures>
- Guidance (Part 3): <https://www.parliament.scot/about/how-parliament-works/parliament-rules-and-guidance/guidance-on-public-bills/part-3>

## Section 2: Overview of Responses

In total, 96 responses were received.

The responses can be categorised as follows:

- 3 from representative organisations (a political party and other bodies with a role representing members or supporters' views collectively)
- 5 from public sector organisations
- 30 from third sector organisations (e.g charitable, campaigning, social enterprise, voluntary, non-profit organisations)
- 1 from 'other' organisations (a local community action group)
- 3 from individual politicians
- 9 from professionals with experience in a relevant subject
- 9 from academics with expertise in a relevant subject
- 36 from private individuals (members of the public)
- 15 were anonymous submissions
- 8 were submissions that are "not for publication"

A number of organisations submitted individualised responses but which contained some duplicated points, including some duplicated text, and a number drew on the same research conducted by Scotland's International Development Alliance. These duplications have been signposted throughout this summary however the references included with duplicated quotes cannot be considered comprehensive.

A clear majority of respondents were in favour of the overall aim of the proposed bill, including the vast majority of those responding on behalf of organisations. There was also strong support for each of the individual aims of the proposed bill – the creation of new statutory definitions of 'wellbeing' and 'sustainable development', the establishment of a dedicated commissioner for sustainable development and wellbeing, and the establishment of public duties underpinned by these two key principles. Very few respondents provided substantive comments in opposition to the proposed bill, however concerns raised by respondents in relation to its aims included potential implementation challenges, the need to strengthen existing policy, the breadth of the policy and the challenge of agreeing definitions of the terms 'wellbeing' and 'sustainable development'.

Key themes mentioned by those supportive of the proposed bill included the following:

- The proposed bill, if passed, would help embed long-termism in policy making for the benefit of future generations.
- The proposed bill, if passed, could help streamline policy and work towards achieving policy coherence.
- The proposals could support progress towards achieving the UN Sustainable Development Goals, enhance National Outcomes and strengthen the National Performance Framework.

- That there is a need for a dedicated Commissioner, who would serve to improve accountability towards achieving a sustainable future.
- The proposed bill, if passed, would be world leading, giving Scotland the opportunity to demonstrate global leadership in this area.
- The proposal aligns with the need to tackle the climate emergency.
- That the proposal aligns with the need to tackle inequalities, poor health and the rise in the cost-of-living.

Key themes mentioned by those who raised concerns about, or potential challenges to, implementation of the proposed bill included the following:

- A broad range of suggested definitions of the terms 'wellbeing' and 'sustainable development' were suggested, with some querying whether establishing overarching definitions was feasible.
- That practical application of the proposed bill's aims could be challenging, including integration with existing policy and the application of new definitions, with further detail required on potential outcomes.
- That existing policy which engages principles of wellbeing and sustainable development should be prioritised over the introduction of new legislation.
- That existing public duties should be strengthened before the establishment of new ones.

## **Disclaimer**

Note that the inclusion of a claim or argument made by a respondent in this summary should not be interpreted as verification of the claim or as endorsement of the argument by the Non-Government Bills Unit.

## Section 3: Responses to Consultation Questions

This section sets out an overview of responses to each question in the consultation document.

### General Aim of Proposed Bill

The consultation document outlined the aim of the proposed bill and what it would involve. Respondents were asked:

**Question 1: Which of the following best expresses your view of the proposed Bill (Fully supportive / Partially supportive / Neutral (neither support nor oppose) / Partially opposed / Fully opposed)?**

**Please explain the reasons for your response.**

96 respondents (100% of the total) answered this question.

- A significant majority of respondents (92%) supported the proposed bill, with 78% expressing full support and 14% expressing partial support. 2 respondents (2% of the total) were opposed to the aims of the proposed bill (1 was partially opposed and 1 was fully opposed). A total of 6 respondents (6%) expressed neither support for nor opposition to the proposed bill.
- None of the organisations that responded to the consultation were opposed to the aims of the proposed bill – 38 out of 39 organisational respondents (97% of the total) were supportive. Of those, 32 (82%) were fully supportive and 6 (15%) were partially supportive. One organisation registered a ‘neutral’ response.
- 50 of the 57 individual respondents (88% of the total) were supportive of the proposals. Of those, 44 (77%) were fully supportive, while 6 (11%) were partially supportive. 5 respondents (9%) registered a ‘neutral’ response, while 1 was partially opposed and 1 was fully opposed.

### Reasons for supporting the proposed bill

#### Embedding sustainable development and wellbeing in policy

The [consultation document](#) set out the three aims of the member’s proposal, as follows:

1. The proposed bill would place new definitions of sustainable development and wellbeing into legislation
2. The proposed bill would establish a Wellbeing and Sustainable Development Commissioner

3. The proposed bill would introduce new public duties in relation to sustainable development and wellbeing based on these new definitions.

Scotland's International Development Alliance (SIDA) was among the organisations who were fully supportive of the proposed bill's aims. Its response to the consultation drew on its wider campaign for the introduction of a Wellbeing and Sustainable Development Bill, which was also referred to frequently in the responses of various organisations responding to the consultation.

SIDA's broad and overarching argument in support of the proposed bill centered around the opportunity to embed sustainable development and wellbeing in Scottish policy making and practice:

"The Alliance is hugely supportive of a Wellbeing and Sustainable Development (Scotland) Bill. The Bill would give force and meaning to commitments on wellbeing and sustainable development, while ensuring that consideration is given to the global impacts of activities here in Scotland...The Bill could trigger a step change that ensures sustainable development and wellbeing become the unequivocal drivers of policy and practice across public life in Scotland." (ID: 213759333)

Other organisations fully supportive of the proposal echoed this view:

"Carnegie UK believes that the proposed Wellbeing and Sustainable Development Bill would allow the Scottish Government to provide a clear vision and guidance for public bodies to put wellbeing at the centre of decision-making. It would also strengthen existing accountability mechanisms, by establishing a Commissioner to hold decision-makers to account on this agenda. And it would embed long-termism into decision-making, by ensuring that there is always a voice advocating for the wellbeing of future generations. Something we know is critical in, for example, the face of a looming climate crisis." (Carnegie UK, ID: 212138205)

"The Bill is a profound opportunity to improve Scotland for the benefit of current and future citizens by giving sustainable development and wellbeing primacy in policy making." (Foundation Scotland, Non-Smart Survey response 1)

"We firmly believe this Bill could trigger a step change that drives Scotland further along this journey by ensuring 'sustainable development' and 'wellbeing' become the unequivocal drivers of policy and practice." (Oxfam Scotland, ID: 213046407)

"We... welcome a sustainable development and wellbeing Bill because it supports a legislative drive to integrating sustainable development and wellbeing economy effectively in local policy and decision-making processes. Moving from 'hope based' governance to 'extreme

ownership' governance as the consultation papers outline and supporting more effective action to protecting people and the natural ecosystems, we all depend on." (Glasgow City Council, ID: 213827367)

SIDA further suggested that the proposed bill provided an opportunity to "put policy coherence for sustainable development (PCSD), and human and ecological wellbeing, at the forefront of government". It defined PCSD (in response to a later question) as follows:

"Policy coherence is the consistency of public policy, whereby:

- no policy undermines any other policy
- where policy conflicts occur, the root cause of the conflict should be identified and efforts made to resolve it in a manner which:
  - minimizes trade-offs
  - maximises synergies.

"Policy coherence for sustainable development must:

- support ecological integrity and social equity within Scotland, and elsewhere in the world
- support the self-defined sustainable development of other countries." (SIDA: ID: 213759333)

Highlighting progress made so far to underpin public policy with the principle of sustainable development, the Foundation for Democracy and Sustainable Development (FDSD) pointed to the potential for the proposed bill to provide a:

"...robust legal foundation... to further enable appropriate policy coherence and overcome short-term pressures from various sources such as election cycles. This legislation can also facilitate increased citizen involvement; long-term thinking; prevention; monitoring and reporting; capacity building; and continuous learning and adaptation." (ID: 213882871)

In addition to highlighting the potential benefits that embedding sustainable development and wellbeing in policy making could have for future generations, includem (a Scottish youth support charity) called for the process to be "equitable" and to engage those who face challenges relating to wellbeing and the Sustainable Development Goals (SDGs). Arguing that "many voices in Scotland remain unheard in the decisions that affect them", includem suggested the definition and review of wellbeing should include those who:

"Face poverty (SDGs 1); Are formally, informally or partially excluded from education (SDG 4); Lack access to public transport infrastructure (SDG 8); and live in communities facing decades of cuts, closures or lack of public, community and/or basic services (SDG 11).

"includem recommends clarifying how the bill has/will take into account their voices and support the participation of lived experience to influence

change. The bill should also recognise the crucial voices of children and young people to understand the wellbeing concerns of current and future generations – particularly considering Scottish Government’s obligations to children’s rights under the UNCRC and the stark prevalence of child poverty in Scotland.” (Non-Smart Survey response 2)

### **Support for the establishment of a commissioner post**

Although more detailed comments were provided in answer to a later question on support for the establishment of a dedicated wellbeing and sustainable development commissioner (and which will be explored more fully later in this analysis), many respondents referenced this aim of the proposed bill as a key reason for their support.

Some respondents linked the role of the commissioner with building policy coherence, with RSPB Scotland stating this “fundamental aim” would require a commissioner:

“to lead this work and provide the one point of contact, the dedicated focus and specific allocated resources needed to make this happen.”  
(ID: 213541964).

The social justice organisation Global Justice Now (Scotland) also linked the role of the proposed commissioner with improved policy coherence and accountability:

“Through policy coherence, as well as accountability through the proposed wellbeing and sustainable development commissioner, the bill will help lawmakers to see all policy through the lens of sustainable development. As such, it should help us achieve our climate change targets, tackle domestic inequality, and become better global citizens.”  
(ID: 213779009)

Other reasons given in support of the introduction of a new commissioner post provided in response to question 1 included:

- the proposed commissioner would provide an “independent voice” to encourage the delivery of sustainable development duties by public bodies (Philip Matthews, professional in the field of sustainable development, ID: 213864727)
- that the commissioner could support public bodies by scrutinising and monitoring achievement towards meeting sustainable development and wellbeing objectives (Oxfam Scotland, ID: 213046407)
- that the commissioner would establish an infrastructure through which a long-term perspective to policymaking could be encouraged (FDSD, ID: 213882871)

These and other reasons respondents gave for supporting the establishment of the proposed commissioner post will be explored in greater detail in the analysis of responses to question 5 of the consultation.

## **Strengthening the National Performance Framework and National Outcomes**

Further to the suggestion that the proposed bill could improve PCSD, various organisational respondents highlighted the potential to strengthen the Scottish Government's key policies engaging the concepts of wellbeing and sustainable development – the National Performance Framework (NPF), the National Outcomes and alignment with the UN SDGs.<sup>1</sup>

The [consultation document](#) set out the potential for the proposed bill to improve the efficacy of the NPF as the distinct overarching framework for achieving National Outcomes by reaffirming its focus on sustainable development and wellbeing.

The independent heritage charity National Trust for Scotland (NTS) was among the organisations to suggest that the proposed bill could have positive implications for the NPF:

“The proposed bill has the potential to strengthen legislation and policy making and ensure sustainable development and wellbeing become the foundations of public thinking and policy making in Scotland, in line with the National Outcomes outlined in the National Performance Framework. The National Performance Framework is currently under review by the Scottish Government. The proposed bill could be used to enhance and strengthen the National Outcomes and The Trust will be advising the Scottish Government as such.” (ID: 213859702)

In its detailed response, Oxfam Scotland made a direct call for the proposed bill to include specific provisions relating to the NPF, including a “legal requirement for meaningful public engagement on the National Outcomes” to ensure greater diversity of voices in the policy-making process, and for the duties on Ministers relating to the National Outcomes, contained within Part 1 of the Community Empowerment (Scotland) Act 2015, to be relocated into the proposed bill. On the latter point, Oxfam Scotland continued:

“when Scottish Ministers set new national outcomes, they must be able to show how they will support wellbeing, Sustainable Development and PCSD, as defined in the WSD Bill; and when reporting on national outcomes, Scottish Ministers will have to explain how they are coherent and have supported PCSD.” (ID: 213046407)

The potential for the proposed legislation to improve and streamline the effectiveness of the NPF and build policy coherence was also highlighted by RSPB Scotland:

“We are fully supportive as we agree that there is a need to embed a commitment to the sustainable development goals into policy and

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<sup>1</sup> <https://nationalperformance.gov.scot/what-it>

delivery and we are more likely to achieve this if we have a coherent, consistent approach built into the National Performance Framework and all relevant policy areas. This Bill would help all public bodies to be more observant of the existing NPF and the sustainable development goals.”

Scotland’s Regeneration Forum (SURF), a charitable membership organisation which supports sustainable regeneration, said it was “confident” the proposed bill would “add value” to current strategy and legislation which engaged the principles of wellbeing and sustainable development through increased objective setting, monitoring and review of outcomes. It highlighted previous engagement it had had in relation to the Fourth NPF and stated that it agreed:

“that a wellbeing-centered approach could add further value to decision-making that further promotes community interests. As a whole, the SURF network welcomes more action towards alleviating poverty and inequality, developing sustainable local economies, responding to climate change, improving health and wellbeing, and in progressing the ‘20 minute neighbourhood’ and community wealth building policy agendas.” (ID: 212840476)

Pointing to the NPF and Scotland’s role in the founding of the Wellbeing Economy Governments partnership (WEGo), the charitable foundation Carnegie UK – which campaigns for the improvement of wellbeing – set out the view that Scotland had “emerged as one of the leaders in the international wellbeing movement” in the preceding decade, before calling for further progress to be made through the proposed bill:

“Despite the significant shifts in rhetoric, this has not translated into decision-making that improves the lives of current and future generations, as evidenced in great detail in the recent inquiry by the Finance and Public Administration Committee.<sup>2</sup> This Bill is an opportunity to change that.” (ID: 212138205)

### **Long-termism in policy making**

The potential for the proposed bill to shift policymaking away from short-termism has already been referred to in this summary. Some respondents linked the proposed bill’s potential positive impact on climate change with a move towards a “longer term mindset” (Danielle Lisa Dale, ID: 213827959), with community action group Sustainable Mearns suggesting that re-directing policy towards long-termism would be “better for the planet, people and nature” (ID: 213557710).

FDSD linked long-term thinking to the rights of future generations and the need to ensure that today’s policies are developed with the needs of future

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<sup>2</sup> [Report on the National Performance Framework: Ambitions into Action \(azureedge.net\)](#) (citation added)

generations in mind. It called for the establishment of a commissioner for future generations to “help harmonise short-term goals with long-term objectives”, adding:

“Incorporating long-term goals and strategies in decision-making processes and institutional structures is vital to represent future generations’ interests in policymaking. This means strengthening institutions across all governance levels – from local to national. The Scottish Parliament should create mechanisms to protect and include future generations’ rights in every aspect of policy development and implementation. The Bill’s focus on the importance of public bodies considering the long-term impacts of policies is key to integrating wellbeing and sustainable development into daily and strategic decision-making processes.” (ID: 213882871)

An anonymous individual suggested that the move towards long-term policymaking “supersedes the limitations of political processes”, adding that the aims of the proposed bill:

“...future proofs policy that is built on the framework and outcomes that it proposes. There is much consideration of the confusion about the NPF, and existing policy definition clashes in the proposal, which, if addressed could help streamline existing legislation.” (ID: 211145776)

The national cycling charity Cycling Scotland highlighted the third aim of the proposed bill – to place duties on public bodies in Scotland in line with upholding the principles of wellbeing and sustainable development – and suggested that this move would have the potential to “build closer partnerships on the theme of sustainability that have long term benefits for future generations”. It called for long-termism in funding provision to ensure that this could be achieved. (ID: 213557710)

### **A wellbeing economy**

The [consultation document](#) highlighted the increased focus on the “wellbeing economy” in Scottish policy, and that the proposed bill would seek “to underpin Scotland’s wellbeing economy to ensure that both principles [sustainable development and wellbeing] are central to its development”.

The Wellbeing Economy Alliance Scotland (WEAll Scotland), a founding member of the WEGo partnership which campaigns for the reorganisation of Scotland’s economy, highlighted the Scottish Government’s commitment to building a wellbeing economy, linking this ambition to the aims of the proposed bill. Suggesting Scotland had so far played a “leading role” in the global drive towards building wellbeing economies, and the progress of the NPF’s “wellbeing vision” for Scotland, it concluded that progress to date had fallen short:

“The Bill would naturally link with the National Outcomes in the National Performance Framework, and the way we measure progress towards

the Sustainable Development Goals and a Wellbeing Economy. This legislation also provides an opportunity to put prevention at the forefront of decision making, protecting the health, economic and social wellbeing of future generations in Scotland and around the world, and the sustainability of our environment and public services for all.” (ID: 213118605)

The Scottish Community Safety Network membership organisation echoed this view:

“As members of the Wellbeing Economy Alliance, we naturally support this Bill and are keen to see Scotland follow in the footsteps of other countries such as Wales and New Zealand, in their work to secure wellbeing into the policy landscape.” (ID: 212666788)

Professor Michael James Roy, an academic and expert in the field of economic and social development and the concept of the “wellbeing economy”, gave the proposed bill his full support and described in his response the “clear need” to connect sustainable development within communities with the wellbeing of both people and the planet. Referring, as many organisations did, to the potential of the proposed bill to “enhance coherence”, his response continued:

“This proposal... has the potential to enrich, the Scottish Government’s commitment to building a wellbeing economy, the “community wealth building” agenda, and hopefully hold policymakers to account to put the wellbeing of people and the planet first. A focus on “the economy” for instance has to be the means to the end, not the end in itself.” (ID: 207802832)

Suggesting Scotland had made progress towards “recognizing the importance of having sustainable development as an aim for public policy” and in starting to adopt alternative measures of economic progress to GDP, Global Justice Now (Scotland) linked the focus on economic growth with “unsustainable development and a loss of wellbeing”. It continued:

“New trade deals after Brexit may lead to the UK government putting forward bills to change aspects of Scottish public policy whose main drivers are not sustainable development and the wellbeing of people and communities... It will be difficult for the Scottish legislature to challenge these bills, but with a strong wellbeing and sustainable development law in place, Scotland will have a clear framework to argue against new policies being introduced if they will lead to unsustainable development, and a Commissioner who can speak out about the inconsistency of any new trade-deal related policies that don’t have sustainable development at their heart. An overarching framework supporting sustainable development and wellbeing in Scottish policy making, might also help the Scottish government argue against aspects of a trade deal that would be bad for the environment,

people and communities in Scotland during the negotiation process of a trade deal.” (ID: 213779009)

## **Climate change**

A common theme among respondents supportive of the proposed bill was its potential to improve progress towards effectively tackling the climate emergency and to “push climate change up the agenda” (Susan Barrie, ID: 213538616).

This included the Church of Scotland, which gave its full support to the proposal due to the Church’s advocacy for “caring for creation as well as climate and social justice”. It continued:

“The Church of Scotland... is therefore supportive of the intergenerational implications of the proposed bill as it relates to these issues.” (ID: 213548122)

SIDA’s response described the potential for public policy to contribute towards “making our planet uninhabitable through irreversible biodiversity loss and climate chaos”. In its view, the proposed bill was vital to helping:

“...make sure we work together in a more joined-up and systematic way, especially in government, and also across the whole of society.” (ID: 213759333)

Oxfam Scotland highlighted warnings from the Committee on Climate Change that Scotland’s legal emission reduction targets were “in danger of becoming meaningless”. It continued:

“The Bill could help make sure we work together in a more joined-up and systematic way to deliver Scotland’s existing climate change legislation by strengthening the existing duty in the Climate Change (Scotland) Act 2009 for public bodies to mainstream ‘sustainable development’... It could also offer an opportunity to build upon the existing Climate Change (Scotland) Act 2009 and the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 by requiring the setting of robust targets to reduce Scotland’s consumption-based emissions.” (ID: 213046407)

In its response, Public Health Scotland (PHS) linked the issue of climate change to population health. Giving its full support to the proposal, PHS argued that the proposed legislation had the potential to help tackle “the nature and climate crisis”:

“Changes in our climate and natural environment are already having an impact on population health and wellbeing in Scotland, with our most deprived communities bearing the burden and less able to adapt. This legislation can ensure we are working together across Scotland to

preserve our environment, undo damage and adapt at pace, protecting the wellbeing of future generations and the planet.” (ID: 213656815)

### **Improved health and wellbeing**

The potential for the proposed bill to help progress towards healthier outcomes for the Scottish people was mentioned in various responses supportive of the proposed bill. Further to the extract above, PHS highlighted Scotland’s lower life expectancy relative to other Western European countries and suggested that the proposed bill could help drive change which leads to “longer, healthier lives for everyone”. Its response continued:

“Protecting the future health of our population requires investment in all the building blocks of health. This means ensuring everyone has access to safe, secure housing; adequate incomes to live; fair work; clean and healthy environments. The health of our people and planet are intertwined. Sustainable development is essential for the health and wellbeing of future generations. The bill could... improve national wellbeing by strengthening accountability and scrutiny around existing processes, embedding preventative action as business as usual in the public sector; reducing inequalities; and increasing life expectancy.” (ID: 213656815)

Health inequalities were also highlighted by Cycling Scotland, which suggested that the proposal addressed the “inequity” of the “enormous differences” in people’s quality of life in Scotland. It called for the proposed commissioner to support active travel by placing:

“a sustainable travel hierarchy at the centre of their work to encourage more people to switch to active travel modes where possible.” (ID: 213557710)

The intersection of sustainable development and wellbeing principles with improved physical and mental health was highlighted by the Observatory for Sport in Scotland (OSS), an independent community sport think tank. In welcoming the proposal and conveying its full support, it focused on how sport can enhance both individual and collective quality of life:

“The OSS is, therefore, excited about the opportunities this Bill offers for enhancing sport’s contribution to people and communities in Scotland by establishing a robust framework that places wellbeing and sustainability firmly at the heart of policy... it is widely accepted that community sport is under-recognised in public policy in Scotland... The need to address sustainable development is recognised globally as an urgent priority in sport... Sport has a particular capacity to support the centering of wellbeing as the core objective of policy through its well-evidenced contributions to personal wellbeing.” (ID: 213773909)

Continued recovery from the COVID-19 pandemic was highlighted in the response of the NTS. It stated that the pandemic demonstrated the “impacts

poor physical, mental, economic and social wellbeing can have on public health” and that it was “crucial our recovery from the pandemic is just and sustainable” to ensure its success and viability. (ID: 213859702)

### **World-leading, global impact**

Further to the above, the NTS also referred to the perceived opportunity presented by the proposed bill to “become a world leader in sustainable development and ensuring wellbeing underpins future policy making in Scotland”. Its response drew a connection between the sustainability of the planet and the wellbeing of humanity, calling for the adoption of “more sustainable methods of development”. (ID: 213859702)

SIDA also emphasised this point in its response, suggesting the proposed bill aligned with support for adopting a global outlook:

“This Bill could avoid negative social, economic, and environmental impacts here in Scotland and significantly reduce negative impacts on the lives and livelihoods of people elsewhere, particularly in ‘majority world’ and low-income countries. Acknowledging and responding to our current and historical role in creating global inequality between and within countries is vital. This will require active procedures that ensure access to information, public participation, and access to justice in decision-making.” (ID: 213759333)

The response from John Loughton BEM, on behalf of the Dare2Lead youth leadership training organisation, continued the theme of the potential for the proposed bill to place Scotland at the forefront of sustainable policymaking. He described the proposals as presenting Scotland with an opportunity to “be a truly generationally sustainable and equitable country, to be an example to others”, and suggested that the “measures in this Bill moves us towards that ideal.” (ID: 208107107)

The success of similar legislation working effectively in other countries was raised in the response from WEAll. It suggested an equivalent Scottish Act would enable Scotland to “continue to play a global leadership role in building a Wellbeing Economy.” (ID: 213118605)

### **Partial support for the proposed bill**

While welcoming the proposed bill in principle, a small proportion of the total respondents in partial support of the proposed bill raised concerns about the “technical detail” (James Curran, ID: 210128526), and how the proposals would be implemented (Scottish Environment LINK, Non-Smart Survey response 4; Paths for All, ID: 213692823).

For example, Aberdeen City Council recognised the proposed bill could provide “more focus, clarity and constancy to sustainable development and wellbeing”, and welcomed the commitment to define the terminologies, as set out in the consultation document. However, its response suggested there

were perceived limitations in the proposal relating to outcomes, reporting requirements, meeting new duties on public bodies and the avoidance of duplication. It continued:

“We recognise that a significant step forward has occurred in spatial planning recently with the new Planning (Scotland) Act 2019 and National Planning Framework 4. But there could be a comparative focus on community planning generally, Community Planning Partnerships, Local Outcome Improvement Plans and the overarching duty to improve outcomes including wellbeing and sustainable development.

“There is concern that any resulting reporting of sustainability and wellbeing indicators should be routed through existing reporting systems to be efficient with staff resources. Procurement professionals have concerns that the sustainable procurement duty would need to change and that a wider focus on sustainability and wellbeing could result in paralysis rather than improvement making the task of securing reliable sustainable outcomes and meaningful community benefits more challenging.” (ID: 213793345)

An anonymous respondent, who also registered partial support for the proposed bill, agreed with the need to “look after our future generations as well as our planet Earth”, but raised concerns about this duty falling on the older generation living in Scotland today:

“We also must balance the needs of the future with the fact that many of our older generation have and are living a comfortable life having provided for the next, so from their point of view, why should they now suffer for an idealistic future” (ID: 209576430)

Cycling Scotland raised concerns about the amount of support that public bodies would receive in relation to the introduction of any new duties. While supportive of the potential for new duties to help build “closer partnerships on the theme of sustainability that have long term benefits for future generations”, it added:

“For this to work, public bodies must receive support, including sufficient funding on a long term basis, and be consulted on any changes.” (ID: 213557710)

Steven Haigh, responding in an individual capacity, emphasised his overall support for the proposal, but highlighted that this was contingent on the proposal amounting to “more than words on paper”. (ID: 208118114)

Although fully supportive of the proposed bill, RSPB Scotland cautioned against adding to the existing complexity of the policy landscape, particularly in relation to imposing new public duties (a theme which will be explored more fully in the analysis of question 7). It stated:

“It is important to have a clear focus on how we will embed these definitions across all relevant policies; and how we will navigate the complexity of the different pieces of legislation to simplify how we can hold people to account rather than add to the complexity. It is important that this highlights the important principles of: a) prevention and taking early steps to tackle climate emergency as well as tackle inequalities that present barriers to achieving this goal; b) efficiency – promoting joined up working that will ensure that we achieve benefit for all communities.” (ID: 213541964)

## **Reasons for neither supporting nor opposing the proposed bill**

Of the six respondents who responded that they held a neutral view towards the proposals (neither supportive nor opposed), only one provided a substantive, publishable comment in response to this question.

Caroline Vosburgh – an academic in the field of environmental sustainability – raised concerns about attempts to define the term “sustainability”:

“Defining Sustainability, in any useful context will be almost impossible and may lead to problems when trying to integrate it into existing legislation like planning and land use.” (ID: 207755418)

## **Reasons for opposing the proposed bill**

One respondent to the consultation recorded a response of ‘partially opposed’, while a further one respondent recorded a response of ‘fully opposed’.

Of those two responses which were not supportive of the proposed bill, one chose not to leave a reason for their response, while the other submitted a ‘not for publication’ response.

## **Question 2: Do you think legislation is required, or are there other ways in which the proposed Bill’s aims could be achieved more effectively?**

### **Please explain the reasons for your response.**

90 respondents (94% of the total) answered this question, with approximately 75 (78%) of those expressing clear support in their qualitative comments for the introduction of legislation as a means by which to achieve the aims of the proposed bill.

The key reasons given in support of introducing legislation are set out in detail below.

## Reasons given in support of the introduction of new legislation

### Giving effect to the proposal's aims

A pervading view among those supportive of the introduction of legislation was that it would be the only means by which to achieve the proposed bill's aims. This view was typified by Foundation Scotland (a charity foundation with the aim of strengthening communities) in its statement that any other measures would simply "have no legal effect" (Non-Smart Survey response 1).

Scottish Environment LINK (a forum for the voluntary environment community) was among those to highlight that the aim of the proposed bill to create statutory definitions could only be achieved through legislative means:

"A statutory definition for a term widely used in legislation cannot be created by any means other than legislation. In addition, the creation of a statutory role, with legal powers, cannot be achieved other than by legislation. Similarly, statutory public duties can only be amended/created by legislation. Thus, if the Bill's aims are agreed, they can only be achieved by legislation. Other measures would have no legal effect." (Scottish Environment LINK, Non-Smart Survey response 4)

The National Trust for Scotland (NTS) stated that, through the passing of legislation, wellbeing and sustainable development would be properly embedded in policymaking, and that this was necessary to ensure both commitment and adequate funding (ID: 213859702). This theme was echoed by other organisations expressing the view that the passing of legislation would give recognition to the principles of wellbeing and sustainable development, and would help to ensure they were taken seriously:

"SURF believes legislation is desirable in focusing attention on change through legal obligations on statutory bodies. The SURF network is vocal about a busy and complex policy landscape around place-based regeneration, and have identified a number of strategies and approaches, not backed up by legislation or resources, that lack real-world impact. Legislative measures in the Wellbeing and Sustainable Development Bill will ensure it is considered seriously and implemented by key actors." (SURF, ID: 212840476)

"Sustainable development and wellbeing can only become the drivers of public policy, if they are given teeth... Too often, environmental and sustainable development policies lack the teeth to be effective. If we are serious about putting sustainable development and wellbeing at the heart of Scottish policy making, then this law is necessary." (Global Justice Now (Scotland), ID: 213779009)

“I think legislation is required in order to ensure that we recognise that our society and politics must take seriously the need to put (the many not the few) people and planet before profit, and to redefine a sustainable future for our children and for nature.” (Steven Haigh, ID: 208118114)

The impact of obligations as a means by which to achieve outcomes was also highlighted by the former Scottish Labour MSP Claudia Beamish, who suggested the passage of legislation would ensure future policymakers remained compelled to consider wellbeing and sustainable development going forward:

“If there is legislation, this will mean that future government of our political persuasion, as well as councils and public bodies will be obliged to implement relevant parts of the act and assess the actions against those parts of it which are relevant. In the climate and nature emergencies and with the serious imbalances and deeply concerning poverty in Scotland, this bill will make an essential contribution to rebalancing economy and society.” (ID: 213874940)

Scott Binnie, responding in an individual capacity, contended that without legislation specifying the change required, the proposal “could appear [to be] a woolly concept”, and that real change would fail to be progressed (ID: 213480231).

### **Legislation as a means by which to achieve “societal change”**

Several respondents were of the view that the proposed bill, if enacted, could provide a mechanism through which societal change could be achieved. The following text featured in the responses from a number of organisations:

“Legislation is an important tool for societal change. It can require and encourage compliance, but also shift societal norms in a much wider range of ways. For example, it can clarify the meanings of important terms, and so move public debate on; it can raise awareness amongst policymakers and the public, and create the structures and processes through which concepts can take hold and flourish.” (Oxfam Scotland, ID: 213046407; Scotland’s International Development Alliance, ID: 213759333; WEAll Scotland, ID: 213118605) <sup>3</sup>

This view was also shared by the Scottish Fair Trade Forum, and Jubilee Scotland (a coalition of organisations which campaign for the cancellation of unjust and unpayable debt):

“The creation of legislation not only gives the necessary legal underpinning of the aims of the proposed Bill but also the existence of legislation can contribute to organisational, cultural and societal

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<sup>3</sup> These organisations provided identical comments within their broader response to this question. These comments have been collated together to avoid duplication.

change. Legislation is a clear testament to the importance given to wellbeing and sustainable development.” (Scottish Fair Trade Forum, ID: 213446178)

“We believe that legislation is the only way that the Bill’s aims could be achieved effectively. Legislation is an important tool for societal change.” (Jubilee Scotland, ID: 213130578)

NTS, by way of example, highlighted the legislation conferring power to enforce national lockdowns during the COVID-19 pandemic. It suggested legislation can confer legitimacy and, as a result, compliance, before commenting that the success of the proposed bill could be furthered by linking to and strengthening existing legislation and policy:

“Legislation is also a key tool in shaping societal change. Whilst initially useful to ensure or encourage compliance, it can also help to shift societal norms and ways of thinking. During the Covid-19 pandemic the world witnessed huge societal shifts from how we worked and socialised, to social distancing and mask wearing, thanks to legislation and compliance, which – certainly in most developed nations – was relatively high...

“But what we also learned was, people wish to see what difference their actions are making, or their compliance and enthusiasm falls. One way to increase the chances of success is to join up the proposed bill with existing commitments such as the National Outcomes, the UN Sustainable Development Goals and targets, and the national Land Use Strategy. We should also draw on the European Union environmental principles (precaution, prevention, rectifying pollution at source, and polluter pays, along with the integration principle).” (ID: 213859702)

### **Improved policy coherence**

As with the response to question 1, the potential for the proposed bill to improve policy coherence and understanding of PCSD was repeatedly referenced in responses (SIDA, ID: 213759333).

This included the response of Oxfam Scotland, which said that despite the “rhetorical commitment” to policy coherence, there has been under-delivery in this area:

“Coherence – mutual support and consistency – is not a requirement of public policy, and consideration of the impacts of one policy on others, or on those outside Scotland’s borders, is not a cultural norm within the Scottish civil service. This Bill could provide a legal route to change that. To support a shift towards a more sustainable developmental pathway, it is important to be clear that policy coherence is with the aim of achieving sustainable development, i.e. PCSD. The NPF, or replacement framework,

could be set up to support PCSD, but legislation is required to achieve this.” (ID: 213046407)

FDSD outlined the role that the proposed legislation could play in building greater coherence by creating a mandate for public authorities to work more inclusively in terms of decision-making. Its response continued:

“The Bill’s architects should explore how the legislation can foster co-operation and co-ordination between different levels of government and stakeholders to achieve effective implementation, as well as how the legislation can best support ongoing efforts to integrate the Bill’s principles into everyday decision-making... critical for achieving policy coherence across sectors. Aligning short-term goals with long-term sustainability objectives will ensure more comprehensive, integrated, and forward-looking policies.” (ID: 213882871)

In its response, includem also highlighted the potential of the proposed bill, if passed, to build coherence in relation to existing policy:

“This legislation could result in fundamental change across public sector decision-making and planning, provide an opportunity to join up existing commitments on sustainable development and wellbeing across Government, and support the implementation of national outcomes with policy coherence.” (includem, Non-Smart Survey response 2)

### **Integration with existing legislation and the National Performance Framework (NPF)**

As with the response to question 1, the NPF was referred to in relation to whether new legislation was necessary to achieve the bills aims.

Max French, an assistant professor at Northumbria University whose research has included the NPF and the integration of wellbeing and sustainability frameworks, suggested that the proposed legislation could create and empower a Future Generations Commissioner to “better integrate the National Outcomes and indicators in the core decision making processes of Scottish Government and public bodies.” Calling the statutory duties in the Community Empowerment (Scotland) Act 2015 “too weak to deliver the required cultural and institutional change needed”, he called for the Christie Commission’s Pillars<sup>4</sup> to be placed on a statutory basis and incorporated into the NPF. He continued:

“New legislation should update the statutory position of the National Outcomes to include all elements of the National Performance Framework. The NPF would be better renamed Scotland’s National Wellbeing

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<sup>4</sup><https://webarchive.nrscotland.gov.uk/3000/https://www.gov.scot/Topics/archive/reviews/publicservicescommission>

Framework, completing the NPF's journey from a government performance framework to a whole-of-society wellbeing framework...

"Finally, the proposed bill could update and enhance statutory duties on Ministers in relation to revising the National Outcomes set out in the Community Empowerment (Scotland) Act 2015... The Bill could extend this Ministerial mandate so that the National Outcomes (or better, the whole content and framing of the NPF), is revised through a multi-faceted, participatory and deliberative 'National Dialogue' which is overseen independently by the new FGC and evaluated based on consistency with the new statutory Christie Pillars/Ways of Working." (ID: 213870922)

PHS also focused its response to this question on the NPF, suggesting the proposed legislation would be "all-encompassing" and could help strengthen accountability in relation to the National Outcomes. Highlighting existing policy – the NPF, the wellbeing economy and Community Planning Partnerships – it warned of implementation challenges having limited the improvement of health and wellbeing, and at addressing inequalities. It continued:

"Existing policy and legislation could be reviewed and updated to place a greater emphasis on sustainable development and strengthen accountability. PHS believes the proposed legislation presents an opportunity to fundamentally redesign the way we develop policy and deliver services; making clear the links between sustainable development, health, and wellbeing agendas; and bringing renewed energy and focus to long-term investment and action." (ID: 213656815)

The "existing, well-documented implementation challenges" experienced in relation to the NPF and the National Outcomes were highlighted in the response from Carnegie UK. It suggested the proposed bill could aid the creation of a "unified approach to delivering Scotland's national outcomes" and called for their "relocation" into the proposed bill to help build clarity for public bodies. Although the proposed bill's aims include the creation of new public duties in relation to wellbeing and sustainable development, Carnegie UK disputed that this constituted new policy:

"Importantly, these are not new duties. Legislation is being used to reinstate existing duties (the statutory national outcomes) which have been informed by the people of Scotland and agreed by Parliament, but have fallen short on delivery. The proposed Bill will bring together all of Scotland's commitments on wellbeing and sustainable development into one place, to support more effective implementation." (ID: 212138205)

In its response, Glasgow City Council also highlighted the NPF, the Community Empowerment Act and the commitment to establishing a wellbeing economy, suggesting these policies were positive but that it would take "specific legislation" to complement and support delivery. Its response continued:

“It is important to create a common framework and language approach to enable public bodies such as local authorities to better and more effectively work with local organisations and communities, mobilising action and achieving the truly transformational action required to address the complex challenges facing our social, economic and environmental systems. A sustainable development and wellbeing Bill would be a welcome means to help with that integration and transformation.” (ID: 213827367)

### **Success of the Wellbeing of Future Generations (Wales) Act 2015**

The legislative example set by the equivalent Welsh legislation – the Wellbeing and Future Generations (Wales) Act 2015 – was mentioned in various responses supportive of the proposed bill. This included Carnegie UK, which also highlighted the success of the New Zealand Public Finance (Wellbeing) Amendment Act 2020 at embedding a wellbeing approach into systems and processes (ID: 212138205).

Cycling Scotland also referred to Welsh Act and suggested that the proposed bill could both define sustainable development and place it at “the centre of decision making”. It suggested that the NPF4 provided an opportunity:

“...to plan for a more sustainable Scotland and can be used by the new commissioner to advocate for active travel infrastructure and planning that includes place-making principles.” (ID: 213557710)

Describing the Welsh Act as “ground-breaking”, FSD said it had exemplified “the importance of incorporating wellbeing and sustainable development into national legislation”. It also set out the view that the Welsh Act:

“...underscores the significance of protecting future generations’ interests by offering a solid legal foundation, and hence societal and political permission, for long-term thinking and sustainable development. By putting Scotland’s National Outcomes at its core, the proposed legislation can legitimately guide public bodies and stakeholders in their decision-making processes. Using legislation to ensure that Scotland’s National Performance Framework accurately reflects progress towards national wellbeing is also essential. It will ensure mandatory reporting against national milestones and indicators.” (ID: 213882871)

### **Urgency of the issue**

Others suggested that enacting legislation would be a necessary reflection of the urgency of the issues the proposed bill was seeking to address.

Highlighting the “climate and biodiversity emergency and a health and cost of living crisis”, an anonymous respondent suggested legislation should be the means by which to “alter the direction of travel” (Anonymous, ID: 212849115).

The Convener of the Church in Society Committee of The Scottish Episcopal Church, responding on behalf of members of the Committee, suggested that legislation was required to focus the minds of policymakers on “the facts and reality of people’s wellbeing – now and in the future – and whether the goals of sustainable development are really being met”. Setting out the Committee’s support for the aims of the proposed bill, the Convener raised the issue of short-termism and continued:

“There currently exists a short-term view when deciding on policies, actions and developments – often due to perceived financial costs and benefits. Such pervading “short-termism” does not consider the impacts these decisions can and will have on future generations. It is time that governments and society start to act to ensure a positive legacy is left for those who come after us. Future generations must not be forced to pay the economic and climate chaos price for our economic progress, nor should they be denied access to the nature and biodiversity that current and past generations enjoyed.” (ID: 213835365)

Other reasons given in support of introducing legislation included that:

- the introduction of “top down” legislation was the only means to guarantee change as organisations “cannot be trusted to police themselves” (Catriona McKay, ID: 212446394)
- the topic was “too big” an issue to be tackled without haste, and that the “quickest route to market for whatever services and processes are needed to make a substantive difference” should be supported (Lindsay Wood, ID: 213553829)
- the UN SDGs are poorly understood by the general population and legislation “is needed to make things actually happen” (Anonymous, ID: 213447691)
- the implementation of legislation at national level will lead to greater application at local government level (Dr Lorna Gillies, ID: 213630771)

## **Reasons given in opposition to the introduction of new legislation**

A minority of responses either set out their opposition to the introduction of legislation in this area, or voiced concerns.

Although partially supportive of the proposed bill, Aberdeen City Council set out its view that its aims could be better delivered through existing policy, rather than the creation of new, over-arching legislation:

“Generally it is thought that the aims of the Proposed Bill could be better delivered under the existing National Performance Framework, existing statutory regimes and emerging policy around the circular economy, wellbeing economy and community wealth-building aspirations. Supplementary guidance to Part 2 of the Community Empowerment Act could ensure the principles of this Proposed Bill are

embedded in how local authorities work with partners and communities to achieve sustainable outcomes.

“Other implementation routes could be achieved by strengthened audit and reporting drivers, for example: the Audit Commission could be required to more robustly assess sustainability performance of public bodies within the Best Value process; there could be guidance around sustainability reporting for public bodies in Scotland issued in the same way that it is by the UK government; and duties for annual climate change reporting, waste reporting, air quality reporting, financial reporting and public procurement reporting could be aligned with any proposed sustainability reporting. More detail would be welcomed on how the avoidance of duplication in reporting will be achieved.” (ID: 213793345)

Similarly, Dr Ian C. Elliot highlighted that there already exists a selection of legislation and policies which concern sustainable development and wellbeing. He suggested that the “challenge” lay in the implementation of current commitments, adding:

“It is unclear how this new legislation would help to deliver more sustainable development.” (ID: 212129677)

Another academic, Caroline Vosburgh, echoed this point:

“I believe that existing legislation and goals/strategies of government bodies needs to be addressed before introducing new legislation.” (ID: 207755418)

Although partially supportive of the aims of the proposed bill and in agreement that legislation could be a helpful means by which to “ensure collective understanding of the Sustainable Development agenda”, Volunteer Scotland cautioned against the breadth of the proposal as set out in the consultation document and stated:

“We think that including Wellbeing in the scope of the legislation could make it too broad to have a meaningful impact. Our reasons for this are explored in our answers to subsequent questions.” (ID: 213825784)

Other reasons given against the introduction of new legislation included:

- that the objectives of the proposal were positive but could place new burdens on local authorities (Anonymous, ID: 208783475)
- that the aims of the proposed bill should be legislated for “within a UK context” (Anonymous, ID: 209576430)

## Defining ‘Sustainable Development’ and ‘Wellbeing’

The [consultation document](#) outlined the first aim of the member’s proposal – to place new definitions of ‘sustainable development’ and ‘wellbeing’ into legislation. Respondents were asked:

**Question 3: Which of the following best expresses your view on whether ‘sustainable development’ should be defined in legislation? (Fully Supportive / Partially Supportive / Neutral (neither support nor oppose) / Partially Opposed / Fully Opposed / Do not wish to express a view.)**

**Please explain the reasons for your response, including any views on what the definition should include.**

95 respondents (99% of the total) answered this question. Of those, 73 (76%) were fully supportive, 14 (15%) were partially supportive, 1 (1%) was partially opposed and 3 (3%) were fully opposed. A response of ‘neutral’ was recorded by 5 (5%) respondents.

Given the broad support expressed for the establishment of a definition of sustainable development in legislation, this section will consider the range of themes expressed in response to this question including:

- the potential for a statutory definition to improve the application of policy
- underpinning any definition with associated sustainable development principles
- the challenge of ensuring any definition of sustainable development can be made “future proof”
- the prevalence of ‘sustainable development’ as a term in existing legislation and policy

### **Applying a definition and improving clarity**

Among the responses in support of defining sustainable development in legislation, it was repeatedly suggested that a clear definition would help aid clarity around its use and application, which Paths for All (a charity that promotes walking as a means of improving health and wellbeing) suggested would avoid understanding of the term becoming any further “muddied” (ID: 213692823).

Some suggested that the term was, at present, poorly understood (Anonymous, ID: 207982520), and that without a clear definition the term could become “meaningless or disingenuous” (Paul Beswick, ID: 207754370)

The view that a statutory definition has the potential to aid clarity was also expressed by numerous respondents:

“Definition will help to align aims, activities and metrics to track and deliver progress. An agreed standard definition across UK nations will help consistency in delivery at UK, national and local level. This will be important as some organisations such as third sector organisations may assist in implementation across different UK nations.” (National Support Network CIC, a not-for-profit organisation that connects communities with support services, ID: 212688239)

“Clear definition is crucial for the subsequent likelihood of success.” (Maturity Institute, an organisation which promotes ‘Responsible Stakeholder Capitalism’, ID: 212544219)

“It is clear from the consultation document that sustainable development (SD) needs to be clearly defined in legislation to allow for a greater, cohesive understanding on what we mean by SD and limit any potential for confusion or varied interpretation.” (Winning Scotland, a third sector body which promotes the development of confidence and resilience in children and young people, ID: 206783040)

“It is too easy to use the term without it being defined, which leads to confusion and different interpretations being held by different parties.” (Benjamin Twist, ID: 207801196)

SURF summarised its view of the need for a definition as serving to help:

“...focus attention on the purpose and value of the Bill, prevent problems in interpretation and implementation, and contribute to decision-making on the ground.” (ID: 212840476)

It was further suggested that clearly defining ‘sustainable development’ would aid accountability, with Jubilee Scotland highlighting the breadth and range of definitions of the term already present in legislation:

“The inclusion of a definition of ‘sustainable development’ in this legislation is important, because there are already a large number of references to sustainable development in existing legislation. A clear definition will provide clarity and support accountability.” (ID: 213130578)

Further to the mentions of consistency noted above, National Trust for Scotland expressed its full support for the inclusion of a definition in legislation but highlighted the risk that any subsequent interpretation and application of a statutory definition could still prove “inconsistent”. Suggesting it was important to consider “the concept of change”, it called for an adaptive, rigorous definition:

“The Trust is of the view that a clear, rigorous definition of sustainable development, and policy coherence for sustainable development and wellbeing, should be set out in this bill... As society moves forwards, flexes, adapts and changes in line with our fast moving world – it would be useful to outline how easily an addition might be made to an agreed definition.” (ID: 213859702)

### **Future-proofing a definition**

In contrast to the views that a statutory definition of ‘sustainable development’ would aid clarity in its application, some respondents disagreed, raising concerns around the practicalities of including an over-arching definition within the proposed bill.

This included Dr Ian C. Elliot, who stated that sustainable development had already been defined “numerous times” in legislation and that it was “unclear how definitional debates can further progress” towards meeting the SDGs. (ID: 212129677)

Raising the issue of rurality, Caroline Vosburgh highlighted the potential difference in understanding of what constitutes sustainable development in Edinburgh compared to, for example, rural Inverness, and that definitions may need to evolve over time. She continued:

“Different areas will have different priorities and issues. A blanket definition will possibly hurt certain communities and sections of the Scottish environment. Additionally what would be a sensible sustainable decision in 1-5 years many not be in 20-30, or vice versa.” (ID: 207755418)

Further to the view that a definition of ‘sustainable development’ could lose relevance over time, an anonymous respondent, who was partially supportive of establishing a definition, agreed with this view but suggested on balance that defining terms remained necessary:

“It is very difficult to write a definition that is future proof and that will not become redundant in the face of unexpected future events. But without a definition it becomes very hard to measure and set outcomes towards.” (Anonymous, ID: 211145776)

Although fully supportive of defining sustainable development in legislation, Professor Michael James Roy suggested that “useful” terms could be utilised by politicians as umbrella concepts which can encompass a breadth of perspectives, which meant the terms could be “blunted through overuse and everyone assuming they know what they mean.” (ID: 207802832)

Similarly, Aberdeen City Council suggested that, at present, the term ‘sustainable development’ could be manipulated to “suit particular specialisms” or for “greenwashing”, noting that it was often conflated with

“climate action”. It went on to raise the “mixed views” of various departments within the council as to the necessity and practicality of a statutory definition:

“Procurement colleagues felt the sustainable procurement duty adequately sets out and defines social, economic or environmental wellbeing. Community planning colleagues felt a definition may be helpful in supplementary guidance to the Community Empowerment Act. Other views were that the term ‘sustainable development’ may now be outdated as it is increasingly embedded into culture and policy. It could even conflict with an emerging definition of ‘the wellbeing economy’.” (ID: 213793345)

Partially supportive of defining the term in legislation, James Curran called for the avoidance of “trade-offs” in establishing an agreed-upon definition:

“The definition must avoid the concept of “trade-offs” which are deeply damaging. For this reason it must avoid the mind-model of the three intersecting circles (Venn Diagram) with the central overlap representing “sustainability”. This fosters a mind-set that trading between the three sectors is acceptable, or indeed almost inevitable. A new definition must enshrine the concept of “multiple benefits”: that every development must deliver for the environment, for society and for the economy. The mind-model of three concentric circles is much preferable: the underpinning circle is environment, within that lies society, and within that lies economy. Environment is fundamental and supplies the essential ecosystem services upon which our lives and lifestyles rely... An essential assumption is that the economy is a social construct and can be directed to suit our societal needs. It is a truism that a healthy economy requires a healthy society which requires a healthy environment. That’s the basic concept to embody in a useful future definition.” (ID: 210128526)

### **Defining ‘sustainable development’**

Of those who provided details of their preferred definition of ‘sustainable development’, a significant proportion of respondents supported the definition championed by Scotland’s International Development Alliance (SIDA), and referred to in the consultation document, including Oxfam Scotland (ID: 213046407), Carnegie UK (ID: 212138205), WEAll Scotland (ID: 213118605), Scottish Fair Trade Forum (ID: 213446178), Global Justice Now (Scotland) (ID: 213779009), SURF (ID: 212840476), National Trust for Scotland (NTS) (ID: 213859702), Foundation Scotland (Non-Smart Survey response 1), Includem (Non-Smart Survey response 2), Osbert Lancaster (ID: 207783337) and Danielle Lisa Dale (ID: 213827959).

SIDA argued that defining sustainable development in legislation would “provide clarity and support accountability”, given the range and breadth of definitions of the term in existing legislation. Its proposed definition of ‘sustainable development’ is as follows:

“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.” (ID: 213759333)

Of the organisations supportive of SIDA’s proposed definition, Carnegie UK highlighted that, were sustainable development to be defined in legislation, Scotland would be following the example of Northern Ireland and Wales, and that, rather than introducing a new concept to the policy landscape, the proposed bill would be “properly defining what is already in place, in order to improve delivery.” (ID: 212138205)

Responding in support of SIDA’s definition, SURF called for the definition to be supplemented by a “clear understanding” that the proposal’s focus is on the improvement of wellbeing:

“...rather than delivering economic growth for its own sake, on reducing poverty and inequality to improve life chances in socially and economically challenged Scottish places, and in promoting community empowerment and local democracy.” (ID: 212840476)

Also supportive of the SIDA definition was NTS, which suggested the key areas for inclusion in the definition should be the focus on living within planetary boundaries and alignment with the SDGs (ID: 213859702) – a view that was shared by Keep Scotland Beautiful (ID: 213738400) and Aberdeen City Council (ID: 213793345).

### **Underpinning a definition with principles**

SIDA, and others, also called for the inclusion of the following “supporting principles” within the broader definition of sustainable development:

- “The principle of enhancing ecological and planetary systems through regenerative approaches.
- The principle of 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.
- The principle of (human or social-ecological) wellbeing instead of economic growth as the core societal objective.
- The principle of interdependence and indivisibility across public policy, meaning that policies are inextricably linked and require policy coherence for sustainable development in response.
- The principle of doing no harm internationally and good global citizenship.
- The principle of evidence-based policymaking.
- The principle of openness and transparency – the availability of information on efforts to achieve sustainable development is vital to engagement and accountability.
- The principle of participation – to recognise that everyone in society has a role to play in working together to achieve sustainable development.” (ID: 213759333)

While supportive of SIDA's reasoning behind the need for a clear definition, includem suggested that the proposed bill provided an opportunity to demonstrate that sustainable development extended beyond its conflation with climate change. Similar to the principles proposed by SIDA, includem called for the inclusion of the following supporting principles to be included in any definition:

- “A clear link to ending poverty and addressing root causes.
- A focus on the wellbeing of people and planet instead of economic growth as a core societal objective.
- The principle of participation, recognising that everyone in society has a role to play to achieve sustainable development and the need to capture insight from seldom heard voices.
- Equity for the present and future, with present generations being able to meet their needs without compromising the ability of future generations to meet theirs.
- The need for a joined up, evidence-based approach across public policy for sustainable development.
- The need for openness and transparency, as the availability of information on efforts to achieve sustainable development is vital to engagement and accountability.” (Non-Smart Survey response 2)

### **Other suggested wordings and principles for inclusion in a definition of sustainable development**

In addition to the most-frequently referenced definitions and principles set out above, a breadth of respondents suggested a wide and varied selection of other terms and principles which, in their view, should be included in any definition of ‘sustainable development’. These suggestions are set out below in the following bullet points:

- “A legal definition which encompasses the appropriate use of resources that will enhance and support the flourishing of both humans and the natural world would be appropriate. It may also be appropriate to examine the concept of Buen Vivir from Latin America, for example, which draws on indigenous thinking and best practice, and placing as the central purpose of all activities of government.” (Professor Michael James Roy, ID: 207802832)
- That sustainable development should be considered “in the interest of community and population not big business profit or corporations” (Catherine Woodcock, ID: 207510194)
- “Organic grass roots growth.” (Fablevision, a cultural sector charity, ID: 208129889)
- “Development that contributes to the local or national environment in a positive and enduring way” (Anonymous, ID: 208783475)
- The “Brundtland definition” and the relevant UN resolution: “At a very high level, the objective of sustainable development can be summarised as

meeting the needs of the present without compromising the ability of future generations to meet their own needs.”<sup>5</sup> (Michael Marshall, ID: 212549429)

- That sustainable development “speaks to humanity’s ability to continue developing and providing for future generations.” (Bruce Wilson, ID: 210398935)
- That the Act or statutory guidance should confer a requirement for sustainability testing to enable the definition to be operationalised, similar to Scottish Environment LINK’s five key tests for green recovery.<sup>6</sup> (James Curran, ID: 210128526)
- “Recent work by the Centre for Thriving Places on ‘Shared ingredients for a Wellbeing Economy’ suggested multiple cross-over areas between different sustainable development and wellbeing metrics and frameworks. An evolving underlying set of principles based upon such an analysis could provide a more grounded definition and follow precedents set within international procedural law.” (Michael Butler, Non-Smart Survey response 3)
- That “rigorous standards” should be upheld in line with the statutory definition of sustainable development, to avoid different interpretations undermining its “intended purpose and value”; and that “intergenerational responsibility” should be a key principle of the definition to ensure policymakers are “held accountable to the environmental, social, economic and democratic performance of its present and future generations” (Generations Working Together, ID: 213797352)

### **Calls for other terms to be defined in the proposed bill**

In addition to establishing a statutory definition of sustainable development, various respondents also called for a legal definition of ‘policy coherence for sustainable development’ (PCSD). Those who supported including a definition of PCSD in legislation referred to the definition set out in the analysis of question 1, including Scottish Fair Trade Forum (ID: 213446178), Foundation Scotland (Non-Smart Survey response 1) and Includem (Non-Smart Survey response 2).

Respondents to this question also suggested that the term ‘wellbeing economy’ should be defined in legislation. These comments will be considered in the summary of responses to question 4.

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<sup>5</sup> <https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>

<sup>6</sup> [5-Tests-for-a-Green-Recovery-Final.pdf \(scotlink.org\)](https://scotlink.org/5-Tests-for-a-Green-Recovery-Final.pdf)

**Question 4: Which of the following best expresses your view on whether ‘wellbeing’ should be defined in legislation? (Fully Supportive / Partially Supportive / Neutral (neither support nor oppose) / Partially Opposed / Fully Opposed / Do not wish to express a view.)**

**Please explain the reasons for your response, including any views on what the definition should include.**

95 respondents (99% of the total) answered this question. Of those, 69 (73%) were fully supportive, 15 (16%) were partially supportive, 1 (1%) was partially opposed and 2 (2%) were fully opposed. A ‘neutral’ response was submitted by 7 (7%) respondents, while 1 respondent answered that they ‘did not wish to express a view’.

Of those who provided detail to accompany their response, those who expressed support for defining ‘sustainable development’ in legislation were also generally supportive of the move to establish a legal definition of ‘wellbeing’, with many reiterating the response provided to the previous question.

As with the analysis of question 3, this section shall consider the range of themes expressed in response to this question including:

- The potential for a clear definition to aid the application of policy
- The challenge of agreeing a single definition of ‘wellbeing’ given the breadth of its application
- That various interpretations and understandings of ‘wellbeing’ exist in policy, with competing suggestions for what any single definition could or should include
- That other terms should be defined in the proposed legislation beyond those suggested, including ‘wellbeing economy’

### **Applying a definition and improving clarity**

As with the response to the previous question, many in support of establishing a legal definition of wellbeing supported this proposal for similar reasons, which, for brevity, will not be replicated at length here. This included the view that a statutory definition can only be made statutory if it is enacted through legislation (Anonymous, ID: 207775895).

Among the views given in support of establishing a definition, Carnegie UK reiterated the position that defining terms in legislation can improve accountability and provide “clarity and specificity around public sector duties” (Carnegie UK, ID: 212138205).

The Maturity Institute was among the respondents to highlight the importance of measuring progress towards achieving outcomes. It suggested that a clear definition with a “practical measurement of progress” was essential to ensuring the strength of any commitments to change (Maturity Institute, ID: 212544219).

Similarly, the individual respondent Michael Marshall suggested that, only through definitions and targets could positive change be made to improve wellbeing:

“The addition of legislative definitions, targets, offences and so on is necessary to reverse the direction in which our society is otherwise travelling... as our environmental catastrophe worsens, pressures on wellbeing and unequal wealth distribution will otherwise inexorably increase.” (Michael Marshall, ID: 212549429)

### **The challenge of defining ‘wellbeing’**

A theme among responses to this question was that defining wellbeing in legislation may be less pressing or less straightforward than defining ‘sustainable development’, including among some respondents supportive of doing so. National Trust for Scotland, for example, was fully supportive of defining ‘wellbeing’ but highlighted that the term is used less frequently in legislation, appearing more often in policy. It concluded, however, that defining the term could still add value for policy coherence:

“Whilst it may therefore not be as pressing to create a definition of ‘wellbeing’, when creating policy coherent legislation - the development of a clear definition is of benefit in order to attain consistent application across policy and practice.” (ID: 213859702)

includem called for greater clarity around how the proposed bill would impact or engage with definitions already present in legislation which relate to “individual wellbeing”, such as Getting It Right For Every Child and its framing of child wellbeing through the ‘SHANARRI indicators’ – “Safe, Healthy, Achieving, Nurtured, Active, Respected, Responsible and Included”. Its response continued:

“In our work to embed Hope as a part of wellbeing / SHANARRI conversations with children & young people as well as in assessment meetings with social workers, it has supported opening strength-based conversations across wellbeing topics and provided a useful lens to positive potential.” (Non-Smart Survey response 2)

Although fully supportive of defining the term, the Convener of the Church in Society Committee of the Scottish Episcopal Church highlighted that wellbeing “is not a single thing that can be measured by a tick box.” (ID: 213835365) Similarly, Glasgow City Council – which gave a ‘neutral’ response to this question – queried “what specific benefit would arise from the term being defined in legislation”. (ID: 213827367)

The importance of engaging communities in relation to establishing a definition of 'wellbeing' was highlighted by RSPB Scotland, which was fully supportive of the proposal. However, it suggested that building consensus on what a collective measure or definition of wellbeing would be would require:

“...to be given time and needs to include comprehensive engagement and participation of a wide range of stakeholders, including representatives of the communities who will be most impacted by the decisions made based on these discussions – specifically communities who experience the greatest inequalities impacting wellbeing.” (ID: 213541964)

Expressing partial support, Volunteer Scotland suggested the meaning of 'wellbeing' was “perhaps less ambiguous than ‘sustainable development’”, and that the Scottish Government’s commitments to establishing a ‘wellbeing economy’ meant that the narrative around the term in this context was “already well established” (ID: 213825784).

Scottish Environment LINK highlighted that the term 'wellbeing' was less prevalent in legislation than 'sustainable development' and was applied more frequently in policy. Suggesting that it was “in principle” supportive of defining the term, it remained “less convinced that such a definition is required in statute”. (Non-Smart Survey response 4)

Partially supportive, Aberdeen City Council suggested that any new reporting duty in relation to measuring wellbeing against a new definition could have “higher resource implications”. (ID: 213793345)

Also partially supportive, the Royal Town Planning Institute Scotland (RTPI Scotland) highlighted the development, in tandem with this proposal, of other policy which could impact the planning sector e.g. in relation to community wealth building. It added that “clear consideration and alignment with both the planning system and other key areas of Scottish Government policy and legislation should be made before this proposal is developed further.” (ID: 213869111)

### **Suggested definitions of 'wellbeing'**

Various organisations responded with identical comments in support of specific definitions and principles for inclusion in a definition of 'wellbeing'. This included Carnegie UK (ID: 212138205), WEAll Scotland (ID: 213118605), Oxfam Scotland (ID: 213046407), SIDA (ID: 213759333), Foundation Scotland (Non-Smart Survey response 1) and Global Justice Now (Scotland) (ID: 213779009). To avoid duplication, this summary will draw upon specific responses to this question, rather than replicating the similarities between each of the responses. (Each organisational response can be read in full – see the Annexe to this document for further information).

Calling for the definition of wellbeing to build on work already undertaken by the OECD by including the principles of equity and long-termism (a view shared by various organisations including those listed above), Carnegie UK's response set out the following definitions of "collective" and "national" wellbeing:

"Collective wellbeing is the extent to which people are able to realise the social, economic, environmental and democratic outcomes that they seek.

"National wellbeing is the level of collective wellbeing, the inequalities in collective wellbeing between different groups, and the resources for the collective wellbeing of future generations."

Further, Carnegie UK suggested that truly understanding 'wellbeing' went beyond defining the term, calling on governments to engage a diverse range of citizens' voices in conversation about their priorities in relation to wellbeing and using this intelligence to inform development of the National Outcomes. Its response recommended the transposition of the National Outcomes from the Community Empowerment (Scotland) Act 2015 into the proposed bill, concluding by suggesting the following duties be imposed on Scottish Ministers:

"1. Engage with a broad and diverse range of people and communities from across Scotland to determine the shared social, economic, environmental and democratic outcomes that constitute national wellbeing. This review of national outcomes should continue to be held carried out by Scottish Ministers at least every 5 years.

"2. Report annually to the Scottish Parliament on the progress towards National Wellbeing with reference to both national statistics and the lived experience of the people of Scotland." (ID: 212138205)

WEAll Scotland also called for the above two duties to be imposed on Ministers, in addition to the following:

- "...report annually to the Scottish Parliament on the progress towards National Wellbeing with reference to both national statistics and the lived experience of the people of Scotland.
- enhance the public participation requirements for the determination of national outcomes; in particular, clauses around engagement should be amended to require 'participation' rather than 'consultation'.
- proactively publish the data, information and evidence that will enable people can participate in an informed way". (ID: 213118605)

The concept of 'national wellbeing' was also highlighted by FDSO, which suggested its definition should relate to the establishment of approaches to national and local data collection, to help improve "assessment, comparability, and accountability". The response continued:

“Any definition should also include dimensions of security, as well as vision or purpose. The latter helps create a more stable foundation on which Scotland and individuals can build their lives and future, connecting support for the wellbeing of future generations with current concerns.” (ID: 213882871)

Touching on the challenge of defining ‘wellbeing’, James Curran called for the development of a “small range of key wellbeing measures that can be measured and tested against established standards... Perhaps measures such as health benefit, safety and security, education, equalities and human rights, and local engagement.” (ID: 210128526)

NTS called for any such definition to incorporate:

“...elements of being comfortable, healthy, and happy, and recognise the components that help to realise this – including the built environment, access to nature, culture, recreation and social activities.” (ID: 213859702)

In addition to the range of potential suggested definitions and principles set out above, a further extensive range of additional wordings and terms were suggested for inclusion by a broad range of respondents. These are summarised below:

- “...that wellbeing is the extent to which people are able to realise the social, economic, environmental and democratic outcomes that they seek. The definition of ‘wellbeing’ needs to take into account the inequalities in wellbeing between different groups, both domestically and globally, and the conditions for the collective wellbeing of future generations.” (Scottish Fair Trade Forum, ID: 213446178)
- “An individual’s: physical and mental health; access to nutritional food, healthcare and education; ability to connect with peers, family and culture; access to nature and open spaces”. (Convener of the Church In Society Committee of The Scottish Episcopal Church, ID: 213835365)
- “The definition for Scotland should include recognition of the connection between human wellbeing and that of nature. It has been well documented that ‘access to nature’ (‘nature prescription’ as it is sometimes called) is a powerful antidote to mental health issues and a fundamental aspect of human wellbeing. The Scottish definition therefore should mention safe and easy access to nature in thriving ecosystems.” (Church of Scotland, ID: 213548122)
- “A definition of wellbeing should encompass the two main scientific concepts of wellbeing. Indeed, the definition could be strategically focussed on the relationship between sustainable development and wellbeing.” (Aberdeen City Council, ID: 213793345)
- That “wellbeing is increased when people are able to realise the social, economic, environmental and democratic outcomes that they seek.” (SURF, ID: 212840476)
- “I think that the definition from Aristotle of Eudaimonia (the “good life”) holds best promise. Note the connection with the idea of “the good life”

and Buen Vivir as mentioned earlier. However we also need to recognise that what matters to you in terms of what makes your life good might not matter much to me at all. There therefore has to be a recognition that wellbeing can be highly subjective.” (Professor Michael James Roy, ID: 207802832)

- “Freedom of speech, freedom to hold faith in anything other than hate or disregard for humanity and our environment. Equal opportunity with confidence that the stakes aren’t stacked against anyone. No one should have to experience anxiety about leaving toxicity, especially nuclear waste, for future generations to suffer from or cope with.” (Michael Derrington, ID: 213874826)
- “Wellbeing is personal, environmental and national. It applies to humanity, the natural world, the built environment, public services and every aspect of life. A clear definition of what delivers wellbeing in each is essential.” (Fablevision, ID: 208129889)

### **Other suggested definitions for inclusion in the legislation**

In addition to the suggested definition of ‘wellbeing’, various organisations, including Scotland’s International Development Alliance (SIDA), WEAll Scotland (ID: 213118605) and Oxfam Scotland (ID: 213046407), called for the proposed bill to define the term ‘wellbeing economy’ given its increasing use in policy and the Scottish Government’s commitments in this area.

SIDA’s response continued:

“The Bill should also include a definition of a ‘wellbeing economy’ that creates human and ecological wellbeing within planetary boundaries. This should give focus to enabling all people in Scotland to realise the social, economic, environmental and democratic outcomes that they seek, without having a detrimental impact on the ability of people in other countries, and future generations to meet theirs.

“The Bill could contain a requirement for the transition to a wellbeing economy to prioritise sustainable consumption and production (SCP).

Principles include:

- transition to an economy of sufficiency as well as efficiency;
- reduction of material consumption and all types of wastes;
- reduction of the detrimental impacts on ecology and humans in Scotland and elsewhere;
- adherence to the polluter pays, proximity and precautionary principles;
- the equitable distribution of benefits and disbenefits of the economy;
- decent and sustainable livelihoods.” (ID: 213759333)

WEAll Scotland was also vocal in its support for ‘wellbeing economy’ to be defined in the proposed bill, noting that there was no agreed definition despite the term’s increased use. It defined ‘wellbeing economy’ as:

“...an economy designed to serve collective wellbeing and to protect the health of our planet, by equitably enabling all people to meet their fundamental needs and by operating within planetary boundaries.”

WEAll Scotland also proffered the following wellbeing principles which it suggested would benefit any such definition:

- “Dignity: Everyone has enough to live in comfort, safety and happiness.
- Participation: People are empowered to take part in making the decisions that affect them.
- Nature: The natural world is restored and safe for all life.
- Purpose: Institutions serve the common good and provide real value.
- Fairness: Justice in all its dimensions is at the heart of economic system.” (ID: 213118605)

Oxfam Scotland called for the “much-disputed phrase ‘sustainable economic growth’” to be clarified in the proposed bill to ensure it was interpreted in ways that supported, and did not undermine, sustainable development. It called for the term to be clarified as meaning:

- “growth which does not threaten ecological integrity or social equity in Scotland or globally;
- growth in some sectors, especially pro-ecological, pro-social sectors, those which support a transition to a wellbeing economy, etc., with a corresponding phase-out of industries which are detrimental to social-ecological wellbeing;
- growth in some geographical areas, where it is necessary in order to support the meeting of fundamental human needs;
- an increase in business models (e.g. co-operatives/social enterprises) and businesses which increase the resilience of local economies by maintaining the flow of money within them, rather than leaching it out to headquarters elsewhere; increase business diversity; serve local needs, etc.” (ID: 213046407)

PHS, in addition to backing calls for the definition of ‘wellbeing economy’ to be included in the legislation, called for ‘prevention’ to also be defined in a way “which recognises health and its associated social, economic, and environmental determinants.” (ID: 213656815)

## Establishing a Commissioner Office

The second aim of the proposed bill set out in the [consultation document](#) was to establish a Wellbeing and Sustainable Development Commissioner, whose role would be to champion a culture change across the public sector which embeds the principles of sustainable development and wellbeing.

Respondents were asked:

**Question 5: Which of the following best expresses your view on whether there should be a Commissioner for sustainable development and wellbeing? (Fully Supportive / Partially Supportive / Neutral (neither support nor oppose) / Partially Opposed / Fully Opposed / Do not wish to express a view.)**

**Please explain the reasons for your response, including any views on what the key functions of the proposed Commissioner should be (see pages 19 to 20 of the consultation document), what model of governance could be adopted (see page 22 to 23), and whether the Commissioner could play a role in strengthening existing duties or legislation.**

95 respondents (99% of the total) answered this question. Of those, 61 (64%) were fully supportive, 14 (15%) were partially supportive, 1 (1%) was partially opposed and 2 (2%) were fully opposed. 16 (17%) respondents recorded a 'neutral' response, while 1 did not wish to express a view.

When comparing the response to this question with the response to question 1, a greater level of support was expressed for the overall aims of the proposed bill (92%) than for this specific aim considered in isolation (79%).

### **Reasons given in support of establishing a commissioner**

Of the reasons given in support of establishing a wellbeing and sustainable development commissioner, many mirrored the reasons given in support of the overall aims of the proposed bill.

This included the belief that the commissioner would be essential to efforts to move towards long-termism in policy development and away from short-term thinking – a move considered essential for the benefit of future generations:

“The creation of a new Commissioner would also support a shift towards long-termism in policy making, with a particular focus on primary prevention. Current political structures reward short-term policy interventions, even when they incur future costs, on health, the environment and so on. By bringing a future generations lens to decision making, a Commissioner could help to embed the principles of long-termism, and as such should be seen as an investment in

prevention, not a cost.” (SIDA, ID: 213759333, WEAll Scotland, ID: 213118605, Oxfam Scotland, ID: 213046407)

“The Wellbeing and Sustainable Development (Scotland) Bill must create and place in statute a new Commissioner or Commission to champion long-term and future generations’ interests. This function should involve supporting and capacity-building democratically elected representatives, commissioning reviews, and convening discussions to create solutions to complex sustainability challenges. There is no existing body in Scotland that has the capacity or responsibility to take on this role.” (FDSD, ID: 213882871)

“The commissioner would have an eye towards long-termism. Whilst it is inevitable that parliamentarians and governments are sometimes quite short-termist in their thinking, a commissioner independent of government would be able to have the long-term view and flag up policies that, while seeming to have a short-term benefit, would incur a long-term cost.” (Global Justice Now (Scotland), ID: 213779009)

Further, the belief that establishing a commissioner post would help continue “global momentum” on the issue of protecting the rights of future generations was also reiterated (FDSD, ID: 213882871), with Global Justice Now (Scotland) suggesting that the commissioner’s role should extend beyond Scotland:

“The interests of future generations and those of the global south are currently not well represented in Scottish democratic processes. The commissioner’s role would be to give a voice to both current and future generations, living both here and elsewhere in the world in the democratic processes of Scotland.” (ID: 213779009)

Embedding sustainable development and wellbeing principles in policy was characterized as a “journey of exploration” by Bruce Wilson, who suggested that the commissioner’s role would be essential as “we don’t have all the right answers from the outset”. He called on the commissioner to having a tracking and consulting function, which could aid the development of legislation, adding:

“Time is not on our side to get this done - much of the decisions being made, either consciously or by default, will lock in the inertia to change. As the transition to the ‘next economy’ progresses, the failure to bring Wellbeing into the frame might ultimately preclude it from being woven into the fabric of the society that will emerge in the next ten to twenty years.” (ID: 210398935)

The perceived success of the Welsh Commissioner for Future Generations was repeatedly referred to, with many pointing to the example set by the office established by the Well-being of Future Generations (Wales) Act 2015 as good reason to replicate this post with a Scottish equivalent (Susan Barrie, ID:

213538616; Danielle Lisa Dale, ID: 213827959; Cycling Scotland, ID: 213557710).

For example, Rhiannon Jane Raftery praised the profile of the then-Future Generations Commissioner for Wales, Sophie Howe, and said:

“The commissioner has achieved a strong and positive public profile but definitions and mechanisms of delivery need to be transparent so that people can see how public money is spent and what it achieves.” (ID: 206995206)

The role of the commissioner as a figure capable of galvanizing stakeholders who could serve as an independent champion for future generations was referenced, including by the OSS:

“As both Wellbeing and Sustainability require long-term planning, collaboration and commitment, Scotland must seek to embed these as priorities for the long term and an independent commissioner would be best placed to pull stakeholders together and maintain progress through a national framework for Wellbeing and Sustainability.” (The Observatory for Sport in Scotland, ID: 213773909)

The role of the proposed commissioner in implementing the broader aims of the proposed bill was also highlighted by other organisations in response to this question (National Support Network CIC, ID: 2126882390). This was typified in the response of Global Justice Now (Scotland), which suggested the commissioner post would be “pivotal” to the success of the bill proposal. (ID: 213779009)

In agreement with the above, SIDA was among several organisations to state the following in its response:

“We believe the Bill should create, and place in statute, a new Commissioner to monitor implementation of the Bill, including the statutory duties, with a legal requirement for the commissioner to be both independent of government, and adequately resourced to support public bodies to deliver their duties within the Bill... So far there is no body in Scotland with the capacity to independently scrutinise whether Scotland is making progress towards sustainable development, wellbeing and the national outcomes and is creating the conditions for future generations to flourish. An important role of the Commissioner will be to hold public bodies to account for working towards these goals effectively.” (ID: 213759333)

The role the commissioner would play in advocating for future generations was raised by various respondents as a key reason for supporting the establishment of the officeholder post (FSDS, ID: 213882871; Anonymous, ID: 207775895). This included Carnegie UK, which acknowledged the increasing calls for new commissioner posts and the key purpose of what such posts are designed to achieve:

“We recognise that there have been a lot of calls for commissioners in recent years. For us, the primary purpose of a Commissioner is to advocate for people who are not represented in the democratic process, for example children or, in this case, future generations who are not yet born. We know that the decisions we make today will have a lasting impact on the wellbeing of generations to come, and so it is only right that their interests are taken into account in decision-making processes.” (ID: 212138205)

John Loughton BEM of Dare2Lead also highlighted the importance of independent advocacy. He added:

“We want to be on the front foot and transparent, not playing catch up. Look at parallel offices, such as the Children’s Commissioner or Information Commissioner - invaluable.” (ID: 208107107)

### **Functions of the commissioner**

The consultation document set out the proposed functions of the commissioner and invited comment on these in responses to the consultation. Some respondents referred to specific suggested functions in their responses, while others proposed additional functions.

RSPB Scotland referred directly to the proposed functions, which it considered “comprehensive”, adding that:

“The main benefit of such a role is to provide the dedicated resources to be a single point of contact for the work; to drive timeframes and hold people account to achieving targets; and to provide the consistent approach when working across different departments and stakeholder groups. This role would provide effective necessary guidance and support for public bodies implementing the changes; further cementing the process of securing positive ‘buy-in’ and support from public bodies.”

However, it suggested there should be a specific function which required facilitation and engagement with communities across the country, and that this commitment could not be considered implicit:

“If it is not specifically articulated, public bodies and other stakeholders cannot be held to account for upholding important principles such as inclusivity and equality which are critical to achieving social justice at the heart of the SDGs”. (ID: 213541964)

The need for the commissioner to have sufficient “power” to make an impact was highlighted (Maturity Institute, ID: 212544219), with the National Trust for Scotland stating that it was essential that they:

“...have the power and resources to hold the Government and public bodies to account and be able to carry out evidence-based research with which to advise public authorities.” (ID: 213859702)

Keep Scotland Beautiful called for further detail on the proposed functions before highlighting its view that, for the commissioner to be “effective”, the role would require “adequate powers to generate real change, and to hold to account Government/public bodies.” (ID: 213738400)

Also commenting on the specific proposed functions, Scottish Environment LINK suggested these were light on “enforcement powers”. While agreeing that what was proposed appeared to parallel the Welsh equivalent commissioner’s powers, it called for “greater detail and clarity on how it will operate in practice”, adding:

“It should have a role that has sufficient powers to generate change, and to hold the Government/public bodies to account for any failures/inadequacies.” (Non-Smart Survey response 4)

As with responses to previous questions, SIDA (ID: 213759333), Oxfam Scotland (ID: 213046407), Foundation Scotland (Non-Smart Survey response 1) and WEAll Scotland (ID: 213118605) submitted identical demands for specific commissioner functions, drawing on SIDA’s previous reporting in this area. Specifically, the above organisations called for the commissioner to undertake the following functions:

- “...help to build the capacity of public bodies to implement their duty under s.44(1)(c) of the Climate Change (Scotland) Act 2009, including through the development and provision of tools, training, impact assessment methods, etc.;
- monitor the implementation of that duty through scrutiny and investigative powers;
- assess delivery of the national outcomes for domestic and international PCSD;
- carry out research and provide advice to the Scottish Government, with this published;
- develop mechanisms to support public participation in scrutiny and decision-making for wellbeing, sustainable development and domestic and international PCSD.”

FDSO also set out a clear list of functions that, in its view, the new commissioner post should uphold, including:

- “Collaboration on long-term and cross-cutting issues: Facilitate collaboration between different policy areas to avoid siloed approaches to sustainable development.
- Capacity building and resources: Provide essential resources, expertise, and capacity building to decision-makers, stakeholders, and communities to embed the legislation’s principles in decision-making.
- Balancing conflict and collaboration: Manage the dynamics of collaboration for consensus-building and constructive conflict for innovation across

Scottish public authorities and in partnership with civil society, the private sector, and other stakeholders.

- Addressing tensions and trade-offs: Promote an open, inclusive, and transparent process to manage tensions and trade-offs between social, economic, and environmental objectives, and diverse perspectives in decision-making.
- Fostering learning and adaptation: Facilitate ongoing monitoring, evaluation, and adaptation in response to new insights and changing circumstances, gathered from research, official data, and the inclusive participation of citizens.
- Advocating for future generations: Ensure that the interests of future generations are represented and protected through institutional frameworks that hold decision-makers accountable for long-term implications.
- Ensuring citizen participation: Particularly involving young people and marginalised groups through consultations, hearings, or other participatory mechanisms, to ensure their voices are heard and considered.” (ID: 213882871)

Others referred to the investigatory powers of the new commissioner, which the consultation document proposed would operate at organisational level. Michael Marshall called for the commissioner to have “powers to act, powers to investigate and powers to direct other to act” (ID: 212549429).

This was echoed by James Curran, who called for the commissioner’s powers of investigation to stem beyond the public sector to the private sector:

“The Commissioner must have sufficient independent and investigative authority to seek evidence of compliance, or non-compliance, within the definition and tests of sustainability... it is essential that the role and remit of a sustainability commissioner is not limited to the public sector.” (ID: 210128526)

includem suggested that the focus on organisational-level investigations “could provide some challenges in capturing issues outside governmental and organisational silos”. It continued:

“These silos can result in particularly stark outcomes in pressing public health and wellbeing challenges, where responses in public services do not effectively respond to poverty-related root causes. At includem we regularly hear from families about barriers such as a lack of support, the complexity of navigating entitlements and support, and how facing complex challenges can result in being drawn deeper into multiple public institutions rather than gaining appropriate support... Recognising the deeply unsustainable nature of services & practice siloes and systematically driven reliance on food banks, the Bill must clearly state that the commissioner’s investigations and wider work would include the working relationships and practice between public bodies that impact families. Further, we would value clarity on how the Commissioner will work with bodies outside the public sector – such as

community-based organisations and the third sector – to capture insights into wellbeing challenges.” (Non-Smart Survey response 2)

Drawing on many of the themes already set out while comparing the proposed bill and the legislation in Wales, the academic Max French set out the “three key roles” the Welsh Commissioner undertakes which, in his view, were “currently missing from the Scottish policy context” – a champion role, a support role and a challenge role:

“Firstly, an independent champion role. Sophie Howe, the first FGC in Wales, brought visibility and support to the 2015 Act in Wales, helping set a broadly supported national agenda seen as independent from the political administration. I would add one caveat: in Wales, the 2015 Act commands far more discussion than do the Wellbeing Goals and Indicators. I suggest Scotland’s FGC be tasked with championing the NPF, not just the proposed legislation, ensuring consistency and cementing the NPF’s position as Scotland’s (not just the Scottish Government’s) Wellbeing Framework.

“Secondly, a support role. The Office of Future Generations Commissioner (OFGC) is a vital contributor of support, guidance, training and development to help embed the 2015 Act, which has been critical in enabling public bodies, and other non-statutory organisations, to participate effectively in this agenda. In Scotland, public bodies I have spoken to in my research routinely note a lack of knowledge and confidence in how to effectively embed the NPF. An adequately resourced OFGC in Scotland would facilitate productive engagement amongst public bodies, lower the cognitive load and administrative burden which comes with engaging with new duties, and increase the agenda’s accessibility to non-statutory organisations in the social and commercial sectors interested in participating. One additional challenge Scotland will face is cost: Scotland has almost three times the number of public bodies than does Wales. With new duties on public bodies, demand for support could easily be higher than in Wales, and it is critical Scotland’s Commissioner is adequately resourced for the task.

“Thirdly, a challenge role. The Welsh experience shows the combination of ‘Section 19’ support powers and ‘Section 20’ review powers in the 2015 Act to be effective in motivating change. The Wales FGC experience shows how, in practice, formal activation of expensive ‘Section 20’ review powers rarely had to be used, with the threat of review, or even the distant prospect of a review, additional tools to motivate change.” (ID: 213870922)

Other suggested functions mentioned by respondents in support of the establishment of a commissioner post included:

- reform of existing legislation “to ensure a standardised approach is taken towards sustainable development” (Church in Society Committee of The Scottish Episcopal Church, ID: 213835365)

- to improve “audit and scrutiny; and for an external party to identify gaps and contradictions in legislation or policy” (Philip Matthews, ID: 213864727)
- to provide “effective monitoring and accountability” in relation to public bodies’ understanding and upholding of new duties (Scottish Fair Trade Forum, ID: 213446178)

## **Model of governance**

The consultation document set out various potential governance models that the new commissioner office could follow, including:

- that the commissioner would be independent of government and accountable to and appointed by the Scottish Parliament (based on the current model where officeholder posts are supported by the Scottish Parliamentary Corporate Body (SPCB))
- that the commissioner would be independent of government but operate as a ‘corporation sole’, funded by Scottish Ministers
- in addition to the above options, a potential role for Audit Scotland, similar to the situation in Wales – where the Auditor General for Wales examines the extent to which sustainable development principles have been applied where public bodies have set wellbeing objectives, investigates how the sustainable development principle fits with value for money, and seeks to coordinate with and complement the work of the commissioner.

A minority of respondents directly referred to models of governance when answering this question, with answers tending to focus on general support for the proposed commissioner and what its functions would be. Comments where governance models were referred to are set out below.

Most frequently referenced in responses to this question was the perceived need for the commissioner to operate independently of the Scottish Government, as illustrated by the following comments:

“[There should be] a legal requirement for the commissioner to be both independent of government, and adequately resourced to support public bodies to deliver their duties within the Bill.” (SIDA, ID: 213759333; Global Justice Now (Scotland), ID: 213779009; WEAll Scotland, ID: 213118605; Scottish Fair Trade Forum, ID: 213446178)

“The Welsh Future Generations Commissioner is better understood as an organisation, rather than an individual, with some 30 staff currently employed. Any Commissioner role should be independent of government, have the powers needed to create tangible change and be sufficiently resourced to advise public bodies in delivering the duties imposed on them by the bill. They should also have the power and resources to hold the Government and public bodies to account and be able to carry out evidence-based research with which to advise public authorities.” (National Trust for Scotland, ID: 213859702)

“The Commissioner should have the legal authority to operate independently of the Scottish Government, to oblige public bodies to provide the information required for formal scrutiny, and to advise policy-makers in national and local government.” (SURF, ID: 212840476)

The SPCB was not directly referenced in responses, although the former MSP Claudia Beamish referred to the general process that public appointments follow:

“Model of governance – The commissioner should be appointed by the Scottish Parliament and the budget should be set by the parliament and agreed by the parliament.” (ID: 213874940)

Additionally, Woodland Wakeup – a community interest company which promotes connection with the natural world – indirectly referred to the SPCB model, setting out that this was:

“...a more attractive model of governance simply due to it offering an enhanced level of corporate responsibility through a traditional board.” (ID: 212816812)

Others suggested, in more general terms, that the commissioner should be accountable to the Scottish Parliament in addition to being independent of Government:

“We agree that this institution should be independent of the Scottish Government and accountable to the Scottish Parliament. All parts of society must have trust in the institution, which requires strong systems and backstops to be in place to assure independence, such as an independent governance board, cross-party involvement in appointment, and annual reporting to the Scottish Parliament.” (FDSD, ID: 213882871)

“The commissioner should be independent of the Scottish Government and accountable to Parliament. This is because many of the long-standing problems do not concern the quality or intent of legislation (or even policy rhetoric) but in its implementation, which regularly depends on being delivered elsewhere, including by authorities that can have a different political leadership to the Scottish Government. The Scottish Government telling people to do things often has the opposite effect, unfortunately.” (Professor Michael James Roy, ID: 207802832)

“The Commissioners position should be accountable to Parliament but perhaps also to a citizens committee that provides a conduit for knowledge on the ground of what measures work and what do not.” (Bruce Wilson, ID: 210398935)

The Convener of the Church in Society Committee of the Scottish Episcopal Church was the only respondent to directly refer to a role for the Scottish Parliament Public Audit Committee:

“Any Commissioner must be appointed and funded by the Scottish Parliament and be answerable to the people of Scotland. The work of the Commissioner should be reviewed by the Scottish Parliament Public Audit Committee to maintain openness, transparency and accountability.” (Church in Society Committee of The Scottish Episcopal Church, ID: 213835365)

One respondent specifically mentioned the “corporation sole” arrangement that the Future Generations Commissioner for Wales operates under. In doing so, the organisation Generations Working Together (an organisation promoting intergenerational fairness) gave its full support for the establishment of a commissioner post:

“In terms of governance and accountability, the second approach, exemplified by the Future Generations Commissioner for Wales, could potentially provide greater independence and stability for the office, as the office holder has all functions vested in them as a “corporation sole,” and the office is funded by the Welsh Government. This would hopefully provide greater freedom for the Commissioner to act in the best interests of current and future generations, without being subject to the whims of political pressures.” (ID: 213797352)

A potential role for Audit Scotland was mentioned by two respondents, which made direct reference to a potential role for the organisation in overseeing the functioning of the legislation. This included former councillor Roger Saxon, who was partially supportive of the proposal:

“Parliamentary scrutiny and or Audit Scotland may not be sufficient to ensure policy is followed through. Having a commissioner allows for someone independent of politics to have cases referred without the need for citizens or civic organisations going to court.” (ID: 206794017)

Philip Matthews, a professional working in the field of sustainable development for 30 years, called for the proposed commissioner to report to both Parliament and the First Minister. In response to Q3, he called for the involvement of Audit Scotland in auditing the actions of public bodies in relation to the proposed bill:

“I think that another critical element will be to ensure the proposed Commissioner, and other bodies such as Audit Scotland, are able to effectively audit the actions of public bodies and provide support and advice. In a more detached way, Environmental Standards Scotland may also have a role to play... The former Sustainable Development Commission fulfilled some of this role, but didn't have the range of powers proposed for the Commissioner.” (ID: 213864727)

## **Strengthening existing duties and duplication of remit**

Some respondents referred to the role the commissioner could play in strengthening existing duties on public bodies, with broad support expressed for this element of the proposals among those who referred to it. An anonymous organisation, albeit neutral towards the question of whether there was a need to establish a commissioner post, stated that the proposed functions and remit outlined in the consultation document were a:

“...sensible and proportionate mechanism for strengthening existing duties and achieving collaboration across Public Sector Bodies.”  
(Anonymous, ID: 213848181)

The consultation document also highlighted the manner in which the proposed bill would seek to avoid duplication with other public bodies and office holders with responsibility in the area of sustainable development and/or wellbeing. This challenge was referred to in various responses, including that of NTS, which was partially supportive of introducing the new officeholder post, and called for consideration of how the role could be implemented alongside existing institutions, including the Scottish Human Rights Commission, SEPA, NatureScot, the Climate Change Commission and Historical Environment Scotland. (ID: 213859702)

Similarly, Philip Matthews suggested an “appraisal of the interaction” between the commissioner, Environmental Standards Scotland and Audit Scotland would be necessary to ensure “all three work together effectively and without duplication of effort” (ID: 213864727)

Scottish Environment LINK also called for greater clarity to ensure that the “interactions” between bodies did not lead to duplication:

“This greater clarity needs to address the question in relation to powers and functions, as well as the interactions (overlaps and/or complementarity with inter alia Environmental Standards Scotland, the Climate Change Commission and the Scottish Human Rights Commission).” (Non-Smart Survey response 4)

This point was echoed by Keep Scotland Beautiful, which endorsed the above view and added:

“The role should probably be developed, and the powers/functions to be determined, in parallel with the review of environmental governance under the Continuity Act, and take account of the role of Environmental Standards Scotland and the proposals for an Environmental Court or Tribunal.” (ID: 213738400)

includem also highlighted the need to ensure commissioners had the necessary tools to work together to address issues concerning childhood wellbeing:

“While the proposal envisages a complimentary role with the Children and Young People’s Commissioner, includem would welcome greater clarity on how the commissioners would work together to address major concerns around childhood wellbeing. This is particularly important as recent figures released by government show stagnation in child poverty – sitting at almost 1 in 4 children in Scotland. This is manifestly unsustainable and detrimental to their and their communities’ wellbeing now and in the future.” (Non-Smart Survey response 2)

### **Resourcing a new commissioner office**

The need for the commissioner to be sufficiently resourced to deliver its aims in relation to public bodies was frequently referred to. Oxfam Scotland highlighted the potential for the proposed commissioner to both implement sustainable development duties and strengthen existing duties. It suggested that clear guidance, support and implementation tools would be “vital” to ensuring the success of this aim. It continued:

“Public bodies can also be supported around implementation, such as through the provision of impact assessment tools and toolkits. Scotland’s Adaptation Capability Framework is useful for what might be needed in terms of support for public bodies to implement specific duties, including ‘understanding the challenge’. However, it may be worth considering how a bespoke Scottish toolkit will combine support to implement specific aspects of duties with the broader implementation of wellbeing and PCSD.” (ID: 213046407)

SIDA also recognised in its response the need for adequate resourcing to be provided to the Commissioner to ensure it could deliver its aims in relation to public duties, stating that “this will not only be useful for potential new duties within this bill, but will also help public bodies with delivering already existing duties on sustainable development.” (ID: 213759333)

### **Interaction with the National Performance Framework (NPF)**

Suggestions were also made in relation to the NPF and, as has been referred to previously, SIDA was among organisations to suggest the commissioner could play a role in assessing the delivery of National Outcomes in line with principles of sustainable development and wellbeing (ID: 213759333).

Further analysis of the proposed bill’s potential impact on the NPF and national outcomes will be explored in response to Q7.

### **Reasons given against the establishment of a commissioner**

Although partially supportive of the proposal to establish a commissioner post, Volunteer Scotland suggested the commissioner’s remit would be too broad

due to combining the issues of sustainable development and wellbeing into one post. The response is set out in full below:

“The remit of a new Commissioner would need to be very tightly defined for it to succeed and would require significant resource to meaningfully influence public services on both sustainable development and wellbeing.

“Indeed, the Future Generations Commissioner for Wales, referenced in the Consultation Document, has a wide remit but with a very particular focus on long term sustainability. This would appear to be far more manageable, and realistic, than the proposed Sustainable Development and Wellbeing Commissioner.

“If the remit of the Commissioner was narrower with a specific focus on Sustainable Development, or indeed ‘Future Generations’, we would see them having a key role in advocating for the vital role of volunteers in responding to the climate emergency, leading community based activism and contributing to environmental projects, and in ensuring this is reflected in policy.” (ID: 213825784)

Of the 16 respondents who gave a ‘neutral’ answer to this question, several provided substantive reasoning. This included Lindsay Wood who, responding in an individual capacity, suggested the commissioner could be supported if it were to add “value”, but that “if it slows down the process, or worse than that it further bureaucratises the process, then I would not want it.” (ID: 213553829)

Dr Ian C. Elliot queried how the commissioner would enhance the achievement of SDGs. He continued:

“It is worth noting that there was a sustainable development commission in the UK Government prior to 2011. Why is there no reference to this in the proposal or supporting evidence provided by SIDA? The report of the UK Government Environmental Audit Committee raised a number of issues with the SDC at that time and ultimately it was agreed that Sustainable Development would be more effectively pursued from within government, from the centre of Government by a minister and department. Why is this approach not being adopted now in Scotland? Is there a risk that we repeat the mistakes of the UK Government from over 10 years ago without learning the lessons from their experience?” (ID: 212129677)

Finally, Alex Stobart highlighted the “many commissioners” already in operation and added that “their value is in dispute.” (ID: 212586547)

Of the three responses opposed to the creation of a commissioner post, one was not for publication, while the other two called either for greater detail on job specification, or suggested the post was not necessary:

- Partially opposed: “I would need more details as to their specific job specification. Then I may have a different view-devil is in details!!” (Cait Ni Cadlaig, ID: 211218370)
- Fully opposed: “Too many noses in the trough. We don’t need more useless mouth pieces” (Jacqui Ferry, ID: 211218370)

## **Question 6: What, in your view, should the title of the proposed Commissioner be?**

### **Please explain the reasons for your response.**

Respondents to the consultation were invited to suggest their preferred title for the proposed Commissioner. 76 respondents (79%) provided an answer to this question.

The consultation document suggested that the title of the proposed Commissioner should be the ‘**Wellbeing and Sustainable Development Commissioner for Scotland**’, noting that the equivalent Welsh Commissioner is referred to as the ‘**Future Generations Commissioner**’. These, or variations thereof, were the most popular suggestions.

Reasons given in support of these proposed titles, and other proposed titles for the Commissioner, are set out below.

### **Commissioner for Wellbeing and Sustainable Development (and variations thereof)**

- A title supported by respondents including Foundation Scotland (Non-Smart Survey response 1), John Loughton BEM of Dare2Lead (ID: 208107107) and SURF (ID: 212840476)
- Winning Scotland: “If the definitions are developed effectively and clearly encompass what is meant by sustainable development and wellbeing, respectively, then The Wellbeing and Sustainable Development Commissioner Scotland should be an appropriate title for this role.” (ID: 206783040)
- Woodland Wakeup: “We need an individual with a specific interest in the area of sustainable development and well-being to uphold legislation that is introduced into the field.” (ID: 212816812)
- Church in Society Committee of The Scottish Episcopal Church: “Any title needs to be a clear reflection of the role of the responsibilities” (ID: 213835365)
- The academic Rhiannon Jane Raftery: “I think it must be clear that a Commissioner of Sustainable Development and Wellbeing has a duty to protect the right of future generations to a good life within planetary boundaries is important and it will be key to get young people supporting both the act and the role of the commissioner even perhaps having a youth commissioner playing a role.” (ID: 206995206)

## Future Generations Commissioner (and variations thereof)

- Carnegie UK: “Carnegie UK’s suggested title is, “Future Generations’ Commissioner”. We know that the language of future generations has greater appeal and relevance than some of the other terminology we use to describe public policy. This is an important consideration for a public facing role. The title is also a more accurate reflection of the purpose of the Commissioner: to advocate for future generations who are not yet born, and young people who will face the consequences of policy decisions made now for the greatest amount of time). The title also covers the problem that it is trying to overcome (that of short-termism in politics), and provides a positive framing narrative, which we know is a significant tactic for getting public support in bringing about change.” (ID: 212138205)
- Danielle Lisa Dale: “generates a future focus mindset... puts the focus on longer term policy and vision for the future” (ID: 213827959)

### Other suggested titles:

- **(Scottish) Commissioner for Future Generations and Sustainable Development** – SIDA: “It is important for the title of the Commissioner to resonate with the public across Scotland and not policymakers in order for the Commissioner to provide visibility and accountability and to realise the full potential of the role. We know that the language of ‘future generations’ has greater appeal and relevance than some of the other terminology we use to describe public policy and in Wales has been a way of engaging the public in this new space. That said, it does not capture the global scope of our ambitions and the need to consider those living both here and elsewhere in the world, as well as both current and future generations.” (ID: 213759333)
- **Scotland’s Commissioner for Sustainable Development and the Wellbeing of Future Generations** – Oxfam Scotland: “We support a title that includes reference to both what the Bill covers, and future ‘generations’.” (ID: 213046407)
- **Future Generations and Wellbeing Commissioner for Scotland** – WEAll Scotland: “We believe that it is important for the title of the Commissioner to resonate with the public across Scotland in order for the Commissioner to provide visibility and accountability and to realise the full potential of the role... We also consider it important to ensure that the focus of the role on the wellbeing of both future and current generations is clear.” (ID: 213118605)
- **Sustainable Development OR Net Zero Commissioner** – Volunteer Scotland: “We believe it would make more sense to introduce a Sustainable Development or a Net Zero Commissioner to focus primarily on the environmental aspects of sustainable development as a key part of wider ambitions related to a Wellbeing Economy and achieving Net Zero.” (ID: 213825784)
- **Commissioner for Intergenerational Justice** (Generations Working Together, ID: 213797352)
- **Director for Sustainable and Positive Lifestyle Change** (Catherine Woodcock, ID: 207510194)

- **Commissioner for Wellbeing Economy and Sustainability** (Professor Michael James Roy, ID: 207802832)
- **Commissioner for Sustainability and Societal Wellbeing** (Bruce Wilson, ID: 210398935)
- **Commissioner for Sustainable Development and Social Justice** (Catriona McKay, ID: 212446394)
- **Sustainability Commissioner** (Bob Thomson, ID: 206995206)
- **The People’s Commissioner** (Steven Haigh, ID: 208118114)
- **Better Things Commissioner** (Michael Derrington, ID: 213874826)
- **Cultural Planner** (Fablevision, ID: 208129889)
- **UN Sustainable Development Goals Commissioner** (Michael Marshall, ID: 212549429)

The following respondents made general comments about the title of the proposed Commissioner without suggesting a specific job title:

- Public Health Scotland: “We feel the function of the commissioner is more important than the title. The experience of Wales provides is a good example of something that works well and that could be replicated in Scotland.” (ID: 213656815)
- National Trust for Scotland: “In Wales, the title of ‘Future Generations Commissioner’ has relevance and possibly greater appeal than other traditional titles in public policy. However, this title does not necessarily capture the proposed scope for sustainable development and wellbeing which covers both future and current generations and people in Scotland and living elsewhere.” (ID: 213859702)
- Scottish Environment LINK: “LINK has no strong view on the name. The focus should be on clarifying remit, powers, functions and the interactions (or otherwise with existing bodies), as well as the definitions of sustainable development and wellbeing (for which the Commissioner will be responsible). Once these issues are addressed, an appropriate name for the role will be more obvious.” (Non-Smart Survey response 4)
- Paul Beswick: “Using a title containing the words Wellbeing and sustainability might be appropriate but there would be times when the 2 could be mutually exclusive. Perhaps a title such as Sustainability Commissioner would be useful where part of their remit was enhanced Wellbeing. Long titles with several responsibilities puts people off.” (ID: 207754370)

## Public Sector Duties

The third aim of the proposed bill is to introduce new public duties in relation to sustainable development and wellbeing based on the new definitions of these terms as set out in the bill. Respondents were asked:

**Question 7: Which of the following best expresses your view on whether there is a need for duties for public bodies to promote sustainable development and wellbeing in policy development and implementation?**

**Please explain the reasons for your response including views on any barriers to implementation of these duties and on how the effectiveness of implementation could be measured.**

A very high proportion of respondents supported this proposal. 95 respondents (99% of the total) answered this question. Of those, 94% were supportive – 76 (80%) were fully supportive, while 13 (14%) were partially supportive. No respondents were partially opposed and 2 (2%) were fully opposed. A total of 4 (4%) respondents gave a neutral response.

## **Support for the establishment of new duties on public bodies**

### **Improving coherence and existing duties**

Key among the reasons given in support of this aim of the proposed bill was that there was a need for the existing duties on public bodies to be strengthened to improve their coherence and effectiveness. Some suggested that, without statutory duties imposed on public bodies, the proposed bill may not achieve its purpose of promoting wellbeing and sustainable development (Anonymous, ID: 207775895), and that the legislation would remain “abstract” if it failed to become “an everyday part of the policy process” (Scottish Co-operative Party, ID: 213866389).

This view was summarised by WEAll Scotland as follows:

“We consider it important that the Bill strengthens the duties on public bodies to pursue sustainable development and wellbeing, because it is clear that current duties (and support) 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.” (ID: 213118605)

In addition to improving coherence of existing public duties, Scottish Environment LINK framed the proposed bill as an opportunity to “repeal or amend (outdated) duties that can contribute to public duties acting in a manner that undermines sustainable development and/or wellbeing”. It called for consideration of how the new duties would interact with potential future duties, such as those expected in the Scottish Government’s forthcoming

Human Rights Bill and the potential inclusion of a “Human Right to a Healthy Environment.” (Non-Smart Survey response 4)

Current climate change duties conferred on public bodies were referred to by respondents, with some suggesting that these were not strong enough (Benjamin Twist, ID: 207801196). NTS commended the Scottish Government’s ambition in this area but suggested “current duties are not going far enough to enable effective action.” (ID: 213859702)

In its consideration of existing climate change and other duties, Oxfam Scotland pre-empted potential criticisms that the proposed bill would confer many additional duties on public sector bodies, instead contending that the “main purpose” of the proposed bill was to:

“...strengthen, clarify and streamline existing duties around sustainable development, wellbeing and the national outcomes – many of which are falling short on delivery, while boosting the support they receive.”

Further, Oxfam Scotland called for the strengthening of specific duties, including the existing duty in the Climate Change (Scotland) Act 2009 for public bodies to mainstream sustainable development. Referencing research undertaken by SIDA, it continued:

“The WSD Bill could also amend the Climate Change (Scotland) Act 2009 so that, once conflicting duties have been identified, the Act outlines a requirement for a transparent process that seeks to resolve this conflict as far as possible, reflecting the imperative of ‘policy coherence for sustainable development’. Certain ‘exemptions’ may be necessary for extreme circumstances, however, in theory, this amendment could apply in all cases.” (ID: 213046407)

includem agreed “that current duties are not sufficiently clear and coherent to enable effective action on the cross-cutting environmental and social challenges that are impacting the wellbeing of current and future generations”, while giving its full support to the introduction of new duties which strengthen the existing suite of duties on public bodies. Specifically on the Climate Change (Scotland) Act 2009, it added:

“The WSD Bill could strengthen the existing duty in the Climate Change (Scotland) Act 2019 for public bodies to mainstream sustainable development. Further, this Bill could help ensure that public bodies understand the wider scope of sustainable development beyond climate change – also encompassing key areas of development such as the need to end poverty, provide quality education and good health & wellbeing.” (Non-Smart Survey response 2)

Global Justice Now (Scotland) also highlighted the Climate Change Act, suggesting that the Act’s duties in relation to sustainable development were “not clear”, and that focus should extend beyond specifically climate change:

“There has been a tendency for a narrow focus just on tackling climate change without an understanding of how this in fact might have a negative impact on sustainable development and wellbeing if it is also promoting economic development.” (ID: 213779009)

Expressing partial support for the introduction of new duties, Glasgow City Council posited that the “nature of the requirement under any new duty will be critical”, but that if it were to be similar in approach to climate change duties and the Equality Duty in “asking for due consideration”, then this would be a “proportionate approach”. (ID: 213827367)

The NPF was again referred to frequently, including by Carnegie UK, which gave its support to the proposal. In a detailed response, it called for the relevant duties pertaining to sustainable development and wellbeing in the NPF to be strengthened:

“Carnegie UK supports the strengthening of duties for public bodies. The National Performance Framework is Scotland’s way to improve wellbeing and to localise the Sustainable Development Goals. Recent evidence suggests that the existing duty on public bodies to “have regard to the national outcomes” (in the Community Empowerment (Scotland) Act 2015) is not strong enough to deliver its ambition. We believe that the duties to “promote sustainable development and wellbeing in policy development and implementation” is more positive and tangible than existing duties and will therefore improve the effectiveness of implementation.” (ID: 212138205)

### **Suggested additions to the bill proposals**

SIDA reiterated calls for the relocation of the National Outcomes from part 1 of the Community Empowerment (Scotland) Act 2015 into the proposed bill “as part of efforts to establish greater clarity for public bodies”, a move supported by Oxfam Scotland (ID: 213046407). In a detailed response, it went on:

“Recent evidence suggests that the existing duty on public bodies to “have regard to the national outcomes” is not strong enough to deliver its ambition. Instead, a duty to “promote sustainable development and wellbeing in policy development and implementation” is more positive and tangible than existing duties and will therefore improve the effectiveness of implementation.

“Therefore, as well as being relocated, Part 1 of the Community Empowerment Act should be amended to apply to some of the duties that the existing Community Empowerment Act has conferred on Scottish Ministers, so that:

- “when Scottish Ministers set new national outcomes, they must be able to show how they will support wellbeing, Sustainable Development and PCSD.

- when Scottish Ministers are setting new national outcomes, or revising existing ones, they will have to do more to support meaningful public participation.
- before Scottish Ministers set new, or revise existing, national outcomes, the Parliament will have to be allowed more time to scrutinise draft versions. In 2018, the convenor of the lead Scottish Parliament committee said, due to a shortage of time, the committee was “unable to give any consideration to other committees’ responses” and issued a “plea for more scrutiny time in the future”.
- when reporting on national outcomes, Scottish Ministers will have to explain how they are coherent and have supported PCSD.
- Scottish Ministers will be required to produce a framework for the delivery/implementation of national outcomes. This could set out the policy, spending and other measures put in place, alongside a clear indication of how progress will be assessed – with these updated on a continuous basis.
- Scottish Ministers will be required to report on the delivery of national outcomes more regularly. Currently, they “must prepare and publish reports about the extent to which national outcomes have been achieved”. However, reports must only be prepared and published “at such times as the Scottish Ministers consider appropriate”. Improving the frequency and quality of reporting on national outcomes would enhance accountability and boost the status of the outcomes within decision-making.” (ID: 213759333)

Further to the above, Oxfam Scotland called for the public duties to include:

- “Strengthening the legal requirement on Scottish Ministers to ensure meaningful public participation when setting or revising or revise existing, national outcomes”
- “Clarifying and strengthening legal duties for public bodies delivering the National Outcomes”
- “Requiring Scottish Ministers to publish Delivery Plans and annual Progress Reports for the National Outcomes”
- Require Scottish Ministers to:
  - “engage with a broad and diverse range of people and communities from across Scotland to determine the shared social, economic, environmental, and democratic outcomes that constitute national wellbeing. This meaningful review of the national outcomes should continue to be carried out by Scottish Ministers at least every 5 years”; and
  - “report annually to the Scottish Parliament on the progress towards the national outcomes with reference to both national statistics and the lived experience of the people of Scotland.” (ID: 213046407)

The academic Max French also highlighted the opportunity presented by the proposals to improve the NPF. He suggested that the Christie Commission’s core ‘Pillars’ should be set on a statutory basis “as a cross-cutting element of

the NPF” and could be used to help in structuring “accountability relationships with public bodies”. He added:

“When enacted, this would provide a golden thread linking new legislation with a longstanding trajectory of public service reform in Scotland which, while enjoying broad political and public support, has been poorly implemented in practice...

“A newly established Scottish FGC could assess the performance of new duties against the Christie Pillars as well as the National Outcomes and Indicators (e.g whether there is evidence of a long-term, preventative focus in the case of the ‘Prevention’ Pillar). This would enable a form of process accountability which is more appropriate in an outcomes-focussed context than either mandating alignment with National Outcomes/Indicators (which can be superficial), or results-based accountability (which can instead encourage risk aversion and gaming). In this way, public bodies in Scotland can be prompted through support and challenge to develop more ambitious, stretching contribution plans which better influence decision making.” (ID: 213870922)

### **Measuring progress**

The role of public bodies in meeting challenges and achieving “progress” was referred to, with new duties characterised as a means by which to measure and gauge progress towards sustainable development and wellbeing goals. To this end, the need for effective data collection was frequently referenced (Catherine Woodcock, ID: 207510194), including in relation to the NPF, with Carnegie UK noting that public bodies would be required to demonstrate their contribution toward the National Outcomes through locally and nationally measured indicator sets. In order to be effective, it suggested that “clear guidance that gives public bodies the tools to use wellbeing data to identify priorities, allocate budgets and appraise outcomes.” (ID: 2121382050)

Highlighting increased health inequalities, the cost-of-living crisis and Scotland’s continued recovery from the pandemic, Public Health Scotland (PHS) suggested these challenges demonstrated the importance of “shared priorities and outcomes”. It characterised the proposed bill as:

“...a key method to help reduce health inequalities in our communities. By making this way of working central to the way public bodies operate we can focus policy on those who need the most support...

“Like Public Health Wales, Public Health Scotland can play an important role in supporting implementation. Our data and insights could assess progress and prioritise areas for action. Our evidence can identify what works and we can support outcomes-focused and public health approaches to planning. Such support would need to be adequately resourced from the outset to ensure capacity met expected demand.” (ID: 213656815)

The importance of measuring progress was also referred to by SURF, which highlighted that “formal duties have value in obliging public bodies to demonstrate progress”. It recognised the resource challenges faced by public bodies and said that:

“The focus should therefore be on encouraging better prioritisation of public sector decision-making and partnership working in areas including place-based regeneration towards the aims of the Bill.” (ID: 212840476)

### **Clear guidance and resources**

As has been referred to in previous responses to this question, a significant proportion of organisations responding to this question highlighted the importance of public bodies receiving sufficient resources and guidance to enable them to implement new public duties effectively.

SIDA set out the perceived vitalness of this to success, suggesting the following measures:

- “The Future Generations and Sustainable Development Commissioner can play an important role in providing this support and there is a chance for Scotland to learn from examples of other countries, such as New Zealand or Wales.
- Public bodies can also be supported around implementation, such as through the provision of impact assessment tools and toolkits. Scotland’s Adaptation Capability Framework is useful for what might be needed in terms of support for public bodies to implement specific duties, including ‘understanding the challenge’. However, it may be worth considering how a bespoke Scottish toolkit will combine support to implement specific aspects of duties with the broader implementation of wellbeing and PCSD. There are already toolkits on the latter available.” (ID: 213759333)

Scottish Fair Trade Forum also stated it would be “vital that public bodies are given clear guidance, sufficient support and the necessary tools in order to implement duties” (ID: 213446178), while Carnegie UK suggested examples from other countries could be followed in how to achieve this:

“In order to be effective they need to be accompanied by clear guidance that gives public bodies the tools to use wellbeing data to identify priorities, allocate budgets and appraise outcomes. As we outlined in our evidence to the Finance and Public Administration Committee, other countries have put in place the scaffolding that supports public bodies to develop an effective approach to outcomes, collaboration and joined-up working. Again, there are opportunities here for Scotland to learn from the best international examples in developing its approach to wellbeing and sustainable development.” (ID: 212138205)

includem called for improved resourcing to support meaningful public participation and improve understanding of the meaning of wellbeing as this pertains to the Scottish people. It continued:

“This needs to illustrate a tangible change in implementation/delivery, set out in the policy, spending and other measures, with clarity on how the process will be assessed and updated on a continuous basis... It will be vital that public bodies are given clear guidance, sufficient support, and the necessary tools in order to implement their sustainable development and wellbeing duties.” (Non-Smart Survey response 2)

The former councillor Roger Saxon, fully supportive of the premise behind the question, said that any duties on councils or other public bodies “should be accompanied by the resources to make it possible and auditable” (ID: 206794017), while Rihannon Jane Rafferty suggested that:

“...the barriers are austerity, cuts, essentially it’s about having the funding to deliver but people need also to learn to be creative in making it work.” (ID: 206995206)

PHS also referred to what it saw as an “implementation gap” in Wales with the equivalent Welsh legislation, linking this to the need for a high level of support for public bodies to adequately roll-out any new duties. It also suggested that such a gap already exists in public policy:

“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... 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.” (ID: 213656815)

## **Potential challenges to implementation and reasons given in opposition to establishing new public duties**

Similar to the calls for adequate resourcing and guidance, the existing “burden” on public bodies was a common theme in response to this question, with some suggesting this could pose a challenge to implementation. An anonymous respondent suggested the new duties could be perceived as “another box to tick by local authorities” while “placing an undue burden on over-stretched organisations”. Although partially supportive, it continued:

“Do you intend for this potential policy to replace existing ones? How does it interact with other existing concepts and policies? Is it a ‘good concept’ that is essentially vague and unworkable in its implementation?” (ID: 208783475)

Similarly, Glasgow City Council cautioned against overburdening public bodies given existing commitments relating to acting sustainably:

“Excessive requirements linked to a duty can often reduce the approach to reporting outcomes to a box ticking exercise; and stifle innovation... It would be helpful to understand how existing duties will be integrated into a new sustainable development and wellbeing duty, without causing duplication or potentially overburdening public bodies, putting pressure on time and staff resources.” (ID: 213827367)

While calling the new duties “clearly desirable”, Scottish Environment LINK called for clarity on:

“(a) the strength and enforceability of the duty and (b) its interaction with other duties (not least, those related to climate change, biodiversity and good food)... One issue with all ‘general duties’ on public bodies is that they are often expressed in a weak or unenforceable manner. This should be avoided. Secondly, the new duty should build on and expand/clarify existing duties rather than purely add a new (seen as additional) burden.” (Non-Smart Survey response 4)

Conversely, Scottish Fair Trade Forum recognised the perception of overburdened public bodies, but disagreed that this would be the effect of the proposed legislation:

“We do not see this as adding to a burden on public bodies but reducing a burden through greater clarity and coherence in approach that makes reporting easier. It will be vital that public bodies are given clear guidance, sufficient support and the necessary tools in order to implement duties but with this, we believe that it should be possible to improve delivery and effectiveness while not increasing the burden on public bodies.” (ID: 213446178)

Of the six respondents who were either opposed to or neutral towards the introduction of public duties in this area, two provided substantive comments.

Philip Matthews, a professional in the field of sustainable development, said he was “not convinced” new duties were required. He highlighted that sustainable development underpins a swathe of legislation already, alongside other duties relating to climate change and equalities. He said:

“To me it is more important to properly define sustainable development and, critically, to establish auditing, scrutiny and reporting procedures that drive the delivery of sustainable development in an integrated and effective way.” (ID: 213864727)

Finally, Dr Ian C. Elliot contended that applying wellbeing and sustainable development approaches to government should not be considered “new”, pointing to international agreements that Scotland and the UK are committed

to (including the UN SDGs, climate pledges made at COP26 and the 2015 Paris Agreement), adding that he was unclear how any further new legislation could add to these. Like PHS, he suggested there was an implementation gap hindering the effectiveness of policy, and called for focus on the contributions of the private and third sectors:

“There is no gap in legislation but there does seem to be a gap in implementation. It is worth noting that the proposal makes several references to the public sector yet the public sector make up a relatively small proportion of the economy and that many public services are delivered either solely by other sectors of the economy or in partnership with them (third sector and private sector). There is really no public service that is solely delivered by the public sector - so why only focus on sustainable development in the public sector? Is there a wider role to play in other aspects of policy or in procurement in relation to sustainable development? It is also worth noting that the SIDA report highlights the importance of policy coherence - how does the new sustainable development and wellbeing bill represent coherence with the legislation that is being developed within the UK Government and should any Scottish bill be delayed so that policy coherence can be assured?” (ID: ID: 212129677)

## Financial Implications

**Question 8: Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?**

**(A significant increase in costs / some increase in costs / no overall change in costs / some reduction in costs / a significant reduction in costs / Don't know.)**

90 respondents (94% of the total) answered this question. Of those, 7 (8%) believed the proposed bill would result in a significant increase in costs, 35 (39%) responded that there would be some increase in costs, 6 (7%) responded that there would be no overall change in costs, 7 (8%) that there would be some reduction in costs, and 13 (14%) that there would be a significant reduction in costs. 22 respondents (24%) were unsure.

### **Significant/some increase in costs**

Of the respondents who believed that there would be either a 'significant' increase in costs or 'some' increase in costs should the proposed bill become law, the majority were of the view that the nature of the policy would require an initial high level of spend to achieve its long-term, sustainable aims and savings in the longer term (Catherine Woodcock, ID: 207510194; Bob

Thomson, ID: 207752176; Anonymous, ID: 211145776). This viewpoint is reflected in the following responses:

“It's likely that there will be an increase in short-term costs, due to new staffing and changes to legislation. Implementation of new standards across all sectors may incur additional costs. Long-term however, it is likely that the costs will be recovered and the bill will eventually work out to have cost less. By ensuring sustainable scrutiny is exercised across all policy domains, it is likely that we can reduce costs according to needs, and in some cases, profit. The Welsh hospital that built a solar farm is not only powered entirely by solar energy, but also profits from this. This proposed bill represents an opportunity to explore these kinds of options across society, generating not only environmental sustainability, but greater economic and socioeconomic performance.” (Generations Working Together, ID: 213797352)

“The nature of such a proposal which focuses on sustainability and the needs of current and future generations is likely to be more costly than short-term initiatives, but also likely to have greater reward (in terms of impact on wellbeing and the economy) in the long run. So, what might be perceived as the more expensive route now should benefit this and future generations in the future, and without having had a negative impact on current generation's needs, or on our planet.” (Winning Scotland, ID: 206783040)

“All new legislation will have cost implications, and sustainable ones are even more often front-ended than most.” Caroline Vosburgh, ID: 207755418)

Steven Haigh warned against returning to the “usual position of making short term financial costs the driver rather than the cost to wellbeing” of people and planet. His view was that “in the longer term, sustainable development will hugely reduce even financial costs”. (ID: 208118114)

Former MSP Claudia Beamish, who suggested the proposed legislation would lead to ‘some’ increase in costs if enacted, set out the view that beyond the initial outlay to establish the commissioner’s office and the funding for public bodies, savings could occur through the outcomes the proposed bill sought to achieve:

“How many might argue that the cost of the implications of a robust bill could be significant, I argue that there will be savings if there is a more supportive and inclusive economy and society. For instance, better mental and physical well-being will bring down costs for our NHS. Warm housing will tackle fuel poverty... and support future generations by tackling climate change.” (ID: 213874940)

Professor Michael James Roy called for the “upstream and preventative savings that improvements in health and wellbeing will generate” to be properly recognised when assessing the cost of the proposed legislation. He

concluded that policymakers are poor at this and that “we do not always view government expenditure as investment and value it as such.” (ID: 207802832)

The individual respondent Scott Binnie agreed, noting the challenge of calculating longer-term savings:

“There could be an increase in costs in the short term but leading to a decrease long term. As in the NHS prevention is better than cure but can be more expensive to set up. Plus the long term savings can be difficult to calculate. However that doesn't mean it shouldn't be done.” (ID: 213480231)

### **Significant/some reduction in costs**

The majority of respondents who were of the belief that the proposed legislation would lead to ‘some’ or a ‘significant’ reduction in costs gave the same reason as the majority of those who felt that it would lead to an increase in costs – that significant investment would be required to enact the legislation, but that this would lead to longer-term gains towards achieving the proposed bill’s objectives (Woodland Wakeup, ID: 212816812)

The move towards “future-focused” policy was characterized as delivering “overall financial advantage” (James Curran, ID: 210128526), with Michael Marshall describing the cost of introducing fairer and more environmentally friendly legislation as a “mirage”. He continued:

“This only appears expensive because the enormous true costs of our current actions are currently hidden as they will be paid for in the future.” (ID: 212549429)

Bruce Wilson also spoke of the urgency of the issues the proposed bill sought to address, setting out that:

“The ultimate cost of inaction and the slow decay of indifference... will erode society from all angles. Much as it has been assessed that action to address the climate crisis might actually generate jobs and boost economies, there is every reason to believe that actions to create a healthier more balanced and happier society will pay dividends.” (ID: 210398935)

The responses submitted by SIDA (ID: 213759333), Oxfam Scotland (ID: 213046407), WEAll Scotland (ID: 213118605) and Carnegie UK (ID: 212138205) all stated that:

“It is important to recognise that this legislation requires significant investment in order to be effective. It is likely that the office of a Future Generations’ Commissioner would demand a budget that is equivalent to that of the Children and Young People’s Commissioner for Scotland.”

SIDA's response continued:

"The function of this office, however, would be to support policy development that reduces future costs and we consider that the reductions in future costs will likely be significantly larger than the investment to resource the role of the Commissioner.

"By placing duties on public bodies to promote wellbeing and sustainable development, and by creating a commissioner that supports and scrutinises implementation, this legislation should shift spending upstream to the sorts of policy intervention that reduces demand for public services by creating better outcomes for people and planet." (ID: 213759333)

WEAll Scotland suggested the proposed legislation would help solve the problem of "failure demand", meaning the amount of money wasted on resource demands which could be avoided through preventative design of the economy. (ID: 213046407)

Oxfam Scotland was among the organisations to highlight the potential for the proposed bill to strengthen the NPF and duties on Ministers to publish progress reports, suggesting this would "serve to strengthen the way in which the Scottish Budget is transparently and deeply linked to the delivery to the national outcomes." (ID: 213046407)

Others suggested that the preventative nature of the legislation would improve people's health, thus benefiting the economy and the workforce (Anonymous, ID: 213447691), with PHS referring to preventative health policy as "the most cost-effective means of improving population health and wellbeing". Its response advocated for a "public health approach to prevention, meaning investment is made now to stop health inequalities from happening in the first place". It continued:

"This proposed legislation has the potential to fundamentally redesign the way we plan and deliver services, some of which may not develop tangible benefits for some time, but which have the potential to significantly reduce demand for public services over time. We believe that a focus on delivering long-term benefits over politically driven targets would help to deliver better outcomes for Scotland's communities." (ID: 213656815)

Global Justice Now (Scotland) suggested the proposed bill was more holistic than other policy by broadening its focus to sustainable development and looking beyond the single issue of climate change, and that this would:

"...genuinely save money by its preventative approach, rather than pushing greater costs onto public services now and for future generations." (ID: 213779009)

Max French pointed to the budgeting consideration of the Welsh Future Generations Commissioner and the fact that Scotland has nearly three times as many public bodies as Wales. They suggested that, for this reason, the commissioner's office could need a larger workforce, with higher associated spend, to respond effectively to the challenges the proposed bill seeks to address. (ID: 213870922)

### **No overall change in costs**

Six respondents believed the proposed legislation would lead to no overall change in costs. Of those, substantive comments included the following:

- “This will just nudge people towards the right direction and help understand the implications of it. There may be some initial costs in training and building the content, however long-term it'll save the state money in increased adaptation to climate risk.” (Anonymous, ID: 213830271)
- That this proposal “should not cost any more than it does already” in that “a well planned development should already include well being and health outputs.” (Archie Dryburgh, ID: 207745871)
- That the “smarter use of funds, partnerships and procurement would make a huge difference” (Fablevision, ID: 208129889)

## **Equalities Implications**

**Question 9. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.**

**What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.**

**Please explain the reasons for your response and if there are any ways you think the proposal could avoid negative impacts on particular people.**

62 respondents (65% of the total) answered this question. Of those, none provided clear comments to suggest that they felt the proposed bill would have a negative impact on equalities, or on particular people as a result of age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

Many suggested that the aims of the proposed bill aligned with the recognition of the importance of equalities issues and ensuring positive progress towards improving equalities more broadly. This included Public Health Scotland:

“Through proper implementation a Wellbeing and Sustainable Development Act should impact on all policy and emerging legislation to ensure decisions make sense for today while also not having a detrimental impact on future generations. The legislation provides the chance to audit, consolidate, and strengthen existing impact assessment requirements, ensuring climate, health and socioeconomic inequalities are adequately considered. A combined wellbeing impact assessment could declutter and strengthen impact, while increasing capacity for action. This new way of working would consolidate best practice while driving targeted action to those groups most in need of support, something we feel would, over time, help to reduce health inequalities in Scotland’s communities.” (ID: 213656815)

Winning Scotland suggested that, if implemented correctly, the proposed bill would benefit all individuals in Scotland regardless of their protected characteristics. It added:

“It should benefit those who are marginalised or currently disadvantaged the most, by hopefully ensuring that their wellbeing needs are being met and continue to be met, and helping to close any gaps, ensuring equity in relation to such needs.” (ID: 206783040)

Others suggested that the most vulnerable in society would be most greatly benefited by the passage of the proposed bill (North Ayrshire Council STEM Team, ID: 208168965), with John Loughton BEM of Dare2Lead suggesting this could “only be positive”:

“We know that the marginalised, excluded and disengaged are ALREADY the most vulnerable to a wellbeing-blind economy or indeed the adverse impacts of not focussing on sustainable development.” (ID: 208107107)

Volunteer Scotland noted that marginalised groups may be most likely to experience wellbeing challenges, including negative impacts of the COVID-19 pandemic and the cost-of-living crisis. It suggested that “these communities have more to gain from interventions and activities which improve wellbeing, like volunteering, if their inclusion is prioritised.” (ID: 213825784)

Further, Generations Working Together suggested marginalised groups would be the first to be most negatively impacted by climate change and that, if the proposed bill had the impact that “sustainability and wellbeing principles are adhered to” would “hopefully act to mitigate the more immediate threat to socioeconomically disadvantaged groups.” (ID: 213797352)

Inequalities within the current economic system were highlighted by WEAll Scotland, which suggested inequality had been “baked into the design” of the

economy in a way which “harms collective wellbeing and prevents people from thriving”. It continued:

“It is clear that achieving collective wellbeing and sustainable development, as defined above, cannot be achieved without dismantling all forms of inequalities. The definitions, duties and commissioner proposed in this legislation would therefore put the tackling of inequalities at the heart of decision making in Scotland.” (ID: 213118605)

The ‘Just Transition’ was also referred to (Osbert Lancaster, 207783337), with the academic Rhiannon Jane Raftery calling for the proposal to be part of the “toolkit” towards achieving a just transition.

Other comments included that:

- In enacting the proposed legislation, a “robust equalities impact assessment” would be required (Professor Michael James Roy, ID: 207802832).
- Vulnerable groups would be better supported due to the proposed legislation conferring greater awareness of the UN SDGs (Anonymous, ID: 207982520).

## Sustainability Implications

**Question 10. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations. Do you think the proposal could impact in any of these areas? (If you do not have a view then skip to next question)**

**Please explain the reasons for your response, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?**

67 respondents (70% of the total) answered this question.

Given the nature of the proposed bill and its aims, the majority of respondents who provided clear, substantive comments in answer to this question were supportive of the premise that the proposal would positively impact work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations (Generations Working Together, ID: 213797352; Winning Scotland, ID: 206783040; Steven Haigh, ID: 208118114).

Bruce Wilson referred to the proposed bill as presenting the opportunity to be the “guiding framework by which all other intersecting legislation is influenced for the better” and could “become the engine of change to give shape and substance to all other mandates.” (ID: 210398935)

Glasgow City Council suggested that the inclusion of a definition of sustainable development in law would help to:

“...reinforce and reiterate support for a truly transformational and whole systems approach to addressing the climate and ecological emergency, the cost-of-living crisis and eliminating health inequalities, enabling a more collaborative and transparent approach to solving complex systemic issues. This will ultimately lead to better protecting and enhancing our natural environment, building a fairer, more equitable economy and creating a healthier and more resilient society.” (ID: 213827367)

Considering the perceived positive environmental impact the proposed bill could have, PHS suggested it could assist the Scottish Government in meeting its net zero emissions targets, while enabling better cross-departmental working. It concluded:

“Through proper implementation a Wellbeing and Sustainable Development Act should impact on all policy and emerging legislation to ensure decisions make sense for today while also not having a detrimental impact on future generations. The new legislation provides an opportunity to consider emerging policy through a public health lens and complement work towards realising a wellbeing economy and a renewed focus on shaping places.” (ID: 213656815)

Cycling Scotland put forward the argument that the proposed bill, in addition to aiding progress towards achieving SDGs and net zero targets, could also have “the potential for reducing ageism through intergenerational collaboration” by catalysing conversations between generations about the environment, active travel and other sustainability issues (ID: 213557710).

Several respondents suggested the proposed bill, if passed, would not improve sustainability or would struggle to do so.

This included Dr Ian C. Elliot, who questioned how the proposed bill could improve sustainability, suggesting it was “unclear” due to “so many public services and wider parts of the economy” falling outwith the scope of the public sector. He queried:

“What is it about current commitments, policies and legislation in relation to protecting and enhancing the environment, achieving a sustainable economy, and creating a strong, healthy, and just society that has not worked and that this Bill would rectify?” (ID: 212129677)

Caroline Vosburgh warned against the terms of the proposed bill being “badly defined”, suggesting this could serve to create opportunities for some groups while disenfranchising others. She called for more studies to be carried out into the impact of climate change, rising fuel costs and building standards on groups including children, older people and rural communities (ID: 207755418).

An anonymous respondent suggested that the proposed bill would create “another new body to do the work of Parliament”, and “should not be required” (ID: 207758946).

Finally, individual respondent Jacqui Ferry suggested the environment is not under threat due to individuals, but that “people are at risk from the government interference” (ID: 211218370).

Other points made in response to this question included that:

- Relevant stakeholders, including the Scottish Youth Parliament, should be engaged with to ensure effective implementation of the proposed bill should it become law (Dr Lorna Gillies, Edinburgh Napier University, ID: 213630771)
- The proposed bill could be co-opted by “powerful, vested interests who will seek to water it down and neutralise it... This bill must have teeth. We do not have another decade to get it right.” (Michael Marshall, ID: 212549429)

## General comments

The final question of the consultation exercise invited general comments on the proposal. Respondents were asked:

### **Question 11. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?**

47 respondents (49% of the total) answered this question.

Comments which have already been covered in analysis of earlier questions have not been replicated here. General comments made in response to this question included that:

- A policy which complements GDP as a measure of prosperity through the lens of wellbeing and sustainable development would be a useful addition to the proposed bill (Claudia Beamish, ID: 213874940)
- The adoption of a “cross-government approach” would benefit implementation and “siloed national policy can miss opportunities to contribute to a broader set of outcomes, or unintentionally undermine work in other areas” (PHS, ID: 213656815)

- “...community sport and recreation has a valuable contribution to make in a public policy environment that puts more emphasis on the prevention of harm, is concerned about future generations and takes a holistic view of what makes a good quality of life” (OSS, ID: 213773909)
- The School of International Futures “framework for assessing intergenerational fairness” could be used as a potential tool for assessing the “environmental, economic and social impact” of policy (Generations Working Together, ID: 213797352)
- Fuller consideration of how the proposed bill would strengthen the implementation of the “Place Principle” would strengthen the proposals (RTPI Scotland, ID: 213869111)
- The community benefit potential of the proposed bill should be emphasised as the proposal “needs to be something that people can believe in” (Rhiannon Jane Raftery, ID: 206995206)
- Various pilot programmes should be run in tandem with targeted research as the proposed bill progresses, including projects concerning farming, “tiny house building”, and energy solutions (Caroline Vosburgh, ID: 207755418)
- Educating future generations as to the importance of wellbeing and sustainable development should be “at the heart” of the proposed bill (North Ayrshire Council STEM Team, ID: 208168965)
- An alternative approach could be to “more robustly” embed sustainable development and wellbeing in the NPF, rather than create additional strands of policy (Aberdeen City Council, ID: 213793345)
- The proposed bill risks “initiative overload” by creating a new policy rather than focusing on existing ones (Dr Ian C. Elliott, ID: 212129677)

## Section 4: Member's Commentary

*Sarah Boyack MSP has provided the following commentary on the results of the consultation, as summarised in sections 1-3 above.*

First of all, I would like to thank all those who contributed their thoughts on my proposal.

I was particularly pleased at the strong positive response from those who engaged in the consultation process. 78% of respondents were fully supportive of the proposed bill. There was an excellent range of support from organisations such as Scotland's International Development Alliance, Oxfam UK and Carnegie Scotland which organised round tables to enable and promote inclusive discussions on the need for a bill, the principles underpinning the proposed bill and the key proposals. This also enabled discussions on suggestions for additional actions which could be taken to make the proposed bill successful going forward. In addition, I was grateful to the range of organisations and individuals who responded to the consultation.

I was interested to read respondents' views on the importance of an independent Commissioner who would help deliver the shift towards long-termism in policy making, and how this would help reduce costs and improve long term outcomes on public health and our environment. I was also struck by the view of organisations including Scotland's International Development Alliance that there is currently no body in Scotland with the capacity to independently scrutinise Scotland's progress towards sustainable development, wellbeing and the creation of the conditions for future generations to flourish, and that a Commissioner is needed to ensure that this is achieved. As a result, I am even more committed to the belief that we need an independent Commissioner, accountable to the Scottish Parliament and responsible for holding public bodies to account and driving this agenda forward.

This has further reinforced my view that this proposed legislation is necessary and will bring multiple benefits, including: policy coherence across government and the public sector, tackling inequalities, promoting the importance of inter-generational responsibility, promoting health and wellbeing, reducing costs to the NHS, and highlighting the importance of public procurement.

The importance of linking to other key legislation was highlighted, including Community Wealth Building and Community Empowerment legislation. In addition, the importance of embedding these proposals within the National Performance Framework, National Outcomes, National Planning Framework, and the planning process was highlighted, as was the role this proposed legislation would play in implementing the Christie Principles.

In addition, there were helpful comments about the importance of consistency of definition and implementation across different legislation. There was a good range of views both supporting the title of the legislation and suggesting the

inclusion of the term future generations, to align with the terminology used in the Well-being of Future Generations (Wales) Act 2015.

In March 2023, the Cross Party Group on International Development, of which I am Convener, held an excellent meeting and discussion on the proposed bill. This meeting highlighted the importance of delivering joined-up thinking and action on the UN Sustainable Development Goals, and the positive impacts this could bring both here and across the world. Throughout the consultation process, I have been struck by the proposed bill's relevance to the work of many CPGs I am member of (namely the Renewable Energy and Energy Efficiency, Circular Economy, Malawi, India, International Development and Bangladesh CPGs), which I believe reinforces the need for this proposed legislation.

In conclusion, I am delighted with the consultation responses and the quality of engagement throughout the consultation process, and I look forward to continuing to work closely with stakeholders. Under the Member's Bill procedure, I will now seek support from members from across the Parliament in order to earn the right to introduce a bill.

## Annexe

This annexe sets out, in chronological order, a list of the responses submitted to the consultation. Where a sequential response number has been omitted, this reflects the omission of a 'not for publication' submission. These responses can be viewed at: <https://sarahboyack.com/wellbeing-and-sustainable-development-scotland-bill-consultation-responses/>

<b>Response number</b>	<b>Name of respondent</b>	<b>Smart Survey ID Number</b>
Non-Smart Survey Response 1	Foundation Scotland	n/a
Non-Smart Survey Response 2	includem	n/a
Non-Smart Survey Response 3	Michael Butler	n/a
Non-Smart Survey Response 4	Scottish Environment LINK	n/a
Response 2	Ian Kennedy	206788818
Response 3	Roger Saxon	206794017
Response 4	Katie Hunter	206919921
Response 5	Rhiannon Jane Raftery	206995206
Response 6	Winning Scotland	206783040
Response 8	Stanley Charles Cook	207507417
Response 9	Catherine Woodcock	207510194
Response 10	Archie Dryburgh	207745871
Response 11	Anonymous	207749080
Response 12	Bob Thomson	207752176
Response 13	Cait Ni Cadlaig	207755048
Response 15	Paul Beswick	207754370
Response 16	Caroline Vosburgh	207755418
Response 17	Anonymous	207758946
Response 18	Flexibility Works	207767408
Response 19	Anonymous	207775895
Response 20	Osbert Lancaster	207783337
Response 21	Benjamin Twist	207801196
Response 22	Michael James Roy	207802832
Response 23	Anonymous	207982520
Response 24	Dare2Lead	208107107
Response 25	Steven Haigh	208118114
Response 26	Fablevision	208129889
Response 27	Emma Brown	208168965
Response 28	Anonymous	208783475
Response 30	Anonymous	209192227
Response 31	Anonymous	209576430
Response 33	James Curran	210128526
Response 34	Anonymous	210273739
Response 35	Bruce Wilson	210398935
Response 36	Anonymous	211145776

Response 37	Jacqui Ferry	211218370
Response 38	Carnegie UK	212138205
Response 39	Catriona McKay	212446394
Response 40	Willie McEwan	212496428
Response 41	Lindsay Herriot	212496055
Response 42	Maturity Institute	212544219
Response 43	Anonymous	212499304
Response 44	Michael Marshall	212549429
Response 45	Alex Stobart	212586547
Response 49	Anonymous	212679945
Response 50	National Support Network CIC	212688239
Response 51	Anonymous	212849115
Response 52	Jeanne Ceridwen Christie	212996579
Response 53	Wellbeing Economy Alliance Scotland	213118605
Response 54	Jubilee Scotland	213130578
Response 55	Dr Ian C. Elliott	212129677
Response 56	Scottish Community Safety Network	212666788
Response 57	Anonymous	213447691
Response 58	Scott Binnie	213480231
Response 59	Susan Barrie	213538616
Response 60	Church of Scotland	213548122
Response 61	RSPB	213541964
Response 62	Lindsay Wood	213553829
Response 63	Cycling Scotland	213557710
Response 64	Scottish Fair Trade Forum	213446178
Response 65	Dr Lorna Gillies	213630771
Response 66	Public Health Scotland	213656815
Response 67	Anonymous	212816812
Response 68	Keep Scotland Beautiful	213738400
Response 69	Scotlands International Development Alliance	213759333
Response 70	Oxfam Scotland	213046407
Response 71	The Observatory for Sport in Scotland	213773909
Response 72	Global Justice Now Scotland	213779009
Response 73	Paths for All	213692823
Response 74	Aberdeen City Council	213793345
Response 75	SURF	212840476
Response 76	Volunteer Scotland	213825784
Response 77	Danielle Lisa Dale	213827959
Response 78	Anonymous	213830271
Response 79	Sustainable Mearns	213830499
Response 80	Church in Society Committee of The Scottish Episcopal Church	213835365
Response 81	Glasgow City Council	213827367

Response 82	Anonymous	213848181
Response 83	National Trust for Scotland	213859702
Response 84	Generations Working Together	213797352
Response 85	Royal Town Planning Institute	213869111
Response 86	Philip Matthews	213864727
Response 87	The Scottish Cooperative Party	213866389
Response 88	Max French	213870922
Response 89	Susan Carstairs	213509372
Response 90	Claudia Beamish	213874940
Response 91	Michael Derrington	213874826
Response 92	Foundation for Democracy and Sustainable Development	213882871