



OFFICIAL REPORT
AITHISG OIFIGEIL

Social Justice and Social Security Committee

Thursday 6 November 2025

Session 6



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SOCIAL JUSTICE AND SOCIAL SECURITY COMMITTEE

28th Meeting 2025, Session 6

CONVENER

Collette Stevenson (East Kilbride) (SNP)

DEPUTY CONVENER

*Bob Doris (Glasgow Maryhill and Springburn) (SNP)

COMMITTEE MEMBERS

*Jeremy Balfour (Lothian) (Ind)

Michael Marra (North East Scotland) (Lab)

*Marie McNair (Clydebank and Milngavie) (SNP)

*Carol Mochan (South Scotland) (Lab)

*Alexander Stewart (Mid Scotland and Fife) (Con)

*Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Sarah Boyack (Lothian) (Lab)

Emma Hunter (Children and Young People's Commissioner Scotland)

Jenny Munro (Royal Town Planning Institute Scotland)

Duncan Thorp (Social Enterprise Scotland)

Ellie Twist (United Kingdom Environmental Law Association Scotland)

CLERK TO THE COMMITTEE

Diane Barr

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament
**Social Justice and Social
 Security Committee**

Thursday 6 November 2025

*[The Deputy Convener opened the meeting at
 09:00]*

**Decision on Taking Business in
 Private**

The Deputy Convener (Bob Doris): Good morning, and welcome to the 28th meeting in 2025 of the Social Justice and Social Security Committee.

We have apologies from Collette Stevenson and Michael Marra.

I welcome Sarah Boyack to the meeting; you are very welcome, as always, Sarah.

Our first item of business is a decision on whether to take item 4 in private. Are we all agreed to take that item in private?

Members *indicated agreement.*

**Wellbeing and Sustainable
 Development (Scotland) Bill:
 Stage 1**

09:00

The Deputy Convener: Agenda item 2 is our third evidence session on the Wellbeing and Sustainable Development (Scotland) Bill.

I welcome to the meeting Jenny Munro, policy practice and research officer, Royal Town Planning Institute Scotland; Duncan Thorp, policy and public affairs manager, Social Enterprise Scotland; Emma Hunter, policy officer, Children and Young People's Commissioner Scotland; and Ellie Twist, co-convener for the United Kingdom Environmental Law Association Scotland. I thank you all for helping us with our consideration of Sarah Boyack's member's bill.

We will go straight to questions, and I will start.

The policy memorandum for the bill explores the concept of

"policy coherence for sustainable development".

Is that a desirable objective, and is this bill the best way of achieving it? Do you have any other comments in relation to how we secure that policy coherence—assuming, of course, that it is a desirable thing to have?

Who would like to start? Jenny Munro, you have indicated that in the right way. However, if nobody indicates that they wish to answer, I will pick someone. I thank Jenny for indicating.

Jenny Munro (Royal Town Planning Institute Scotland): I am happy to start.

We broadly support coherence as a policy objective. Coherence is all about moving in the same direction, which can only be a good thing. However, we need to ensure that we are all moving in the right direction, which is where the other details of the bill come into play. For example, we have comments on the definitions in the bill. However, there will probably be a specific question on that, so I will not go into any further detail just now.

There is broad support for policy cohesion.

The Deputy Convener: That is helpful.

I am hearing yes to policy cohesion, but also that the bill itself must be consistent in relation to that.

Ellie Twist (United Kingdom Environmental Law Association Scotland): UKELA warmly welcomes coherence across policy. That is generally welcomed by the courts and by lawyers all around. I have nothing further to add on that.

The Deputy Convener: Is this bill an opportunity to do that?

Ellie Twist: Absolutely.

Duncan Thorp (Social Enterprise Scotland): I agree. Policy coherence is important across other policy portfolios as well. It is also an emerging issue in this context.

Emma Hunter (Children and Young People's Commissioner Scotland): We are similarly broadly supportive of efforts to ensure that policies consider long-term outcomes, and that they are not contradictory.

With regard to this bill, children and young people tell us that climate change is one of their biggest concerns, and so we are also generally supportive of efforts to ensure policy coherence in relation to improving consideration of sustainable development. However, as we noted in our submission to the committee, this bill, as drafted, might create unnecessary overlap and confusion, in particular with regard to the wellbeing definition and existing human rights duties, as well as some existing climate duties.

Although the policy objectives are sound, we are therefore not sure that the bill is likely to achieve them.

The Deputy Convener: That is helpful.

I will stick with you, Emma, for the next question. We will also explore some of those areas later in the evidence session.

The policy objectives are very desirable. However, the committee has to wrestle with the question of whether they can be delivered without legislation. Are there other ways of achieving those policy objectives? The committee has a choice to make.

Emma Hunter: On the objective of improving consideration of sustainable development, opportunities can be considered in relation to reform of the national performance framework and strengthening or clarifying existing duties.

There are existing duties in this area, and we are aware that there has been limited progress. We would not speak to the detail in relation to sustainable development, but there are definitely areas to consider.

One of the fundamentals of enabling wellbeing is the protection of human rights, including the rights of children and young people. Those protections already exist in law, under the Human Rights Act 1998 and the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, and there is a commitment to incorporate further human rights under a human rights bill.

In our view, properly resourcing the implementation of the relatively new duties under the UN Convention on the Rights of the Child and ensuring that there is proper resourcing for any additional human rights duties are key to progressing human rights and therefore enabling progress on wellbeing in Scotland.

The Deputy Convener: That is very helpful. I will come to you next, Jenny. Turning to my prompt question—I would have asked this if the topic had not come up—Emma Hunter has suggested that the national performance framework and Scotland's national outcomes have not really been as effective as we wanted them to be. If we can work well, being clearer and more focused and with a more deliverable approach, might that be a better way of doing things than the proposed legislation—or, rather, an alternative to the legislation, as “a better way” is more of a biased comment? Do you have any comments to make on that, Jenny?

Jenny Munro: I do not have any specific comments about delivering on the objectives of the bill without legislation. That is perhaps more of a legal question, which we are not really placed to respond to. There are opportunities to embed the national outcomes within legislation to provide additional support for the deliverability of those outcomes. That is definitely lacking from the bill in its present form, and that is a really important aspect.

The Deputy Convener: I am sorry to pick you, now, Ellie.

Ellie Twist: That is all right.

The Deputy Convener: So, it could be a legal matter, apparently. Do you have any thoughts on that?

Ellie Twist: Actually, I whole-heartedly agree. On the point about embedding, that is where we stand.

The Deputy Convener: Could you expand on that a little bit? Thinking of the underlying question, the committee will be wrestling with what are desirable policy objectives. Do we legislate to secure those, or are there potential other routes under the national performance framework?

Ellie Twist: To go back to the first question, on policy coherence, placing the legal principles of sustainable development and wellbeing on a statutory footing would establish enforceable rights and corresponding obligations. Both are critical for the people of Scotland during the continually worsening climate and biodiversity twin crises. We need to continue to ensure that decisions are not taken merely with a short-term view; they should also consider impacts on future generations, who will be living in a very different Scotland. That is

the reality that we are facing, and we owe it to them to play a role in lessening the climate-related struggles that they will face, by ensuring that legal concepts such as sustainable development are placed on a statutory footing. I would therefore say that we require the provisions to be legislative.

The Deputy Convener: That is helpful for the committee to hear.

Duncan Thorp: Legislation is definitely needed in this policy area. We can see that in the case of Wales, where legislation was needed, and we can see how it has worked in Wales. There is a good template there, in fact.

It goes back to the point about alignment with the national performance framework and the national outcomes—and other policy areas, too. How do provisions in this area fit in with community wealth building, for instance? It is a matter of ensuring that there is legislation, but not duplication. That is probably the key point.

The Deputy Convener: I will stick with you, Duncan. I am not trying to contradict you in relation to the Welsh experience, but the evidence in relation to that experience 10 years in is that, although it has been broadly positive, that has more to do with a cultural change and a change in awareness rather than any tangible, concrete improvements. I hope that I am not misrepresenting the evidence—please just tell me if I have got that wrong.

Duncan Thorp: No—that is a fair point, in that much of the issue is not about legislation and what is on paper; it is about culture change. I hope that the legislation will help with that culture change. You are right: it is very much about changing how things are done and how people think about the issues—if that is what you meant.

The Deputy Convener: I am not trying to put words into your mouth, but both you and Ellie Twist mentioned putting things on a statutory footing. Is the culture change the most important aspect, or is it the statutory footing?

Duncan Thorp: I think that there has to be both. Legislation will drive the culture change to a certain extent, as it is the direction of travel for policy. Those things must co-exist to work.

The Deputy Convener: The underlying question was about the Welsh experience. Do other witnesses have any comments on the Welsh experience and what we can learn from it? Have I misinterpreted the evidence that we have had to date? I am more than happy to be contradicted.

Ellie Twist: The Welsh experience offers a great insight into how to give statutory teeth to sustainable development objectives. The Well-being of Future Generations (Wales) Act 2015 requires public bodies to carry out sustainable

development by setting and publishing wellbeing objectives. The 2025 report “No time to lose: Lessons from our work under the Well-being of Future Generations Act” freshly assesses how best to measure the impact that public bodies are having, and we could benefit from taking something like that on board to ensure that our implementation of a future generations commissioner is robust and as helpful to future generations of Scotland as it can be.

I like the interesting provision in which the Welsh Government grants a great level of autonomy to local authorities in determining area-specific wellbeing outcomes, which enables localised responses while maintaining national coherence. That could be a potent way to address Scotland’s diverse regional requirements.

The Deputy Convener: I do not want to misrepresent the Welsh situation. You mentioned that the 2015 act gives teeth to the pursuit of sustainable development objectives, and you also mentioned the development and setting of plans by various public bodies. Can you give an example of Welsh commissioners using those teeth?

Ellie Twist: Absolutely. They have a great national indicators framework that provides quantifiable metrics against which progress can be assessed. A part of that is the reporting cycles with parliamentary scrutiny—that kind of parliamentary scrutiny could be helpful.

Going back to the previous question on statutory teeth, we have done a similar thing with national planning framework 4. We put that on a statutory footing, which strengthened alignment across Scotland’s planning system and required decision makers to put time and effort into their considerations. It shifted them from a more short-term approach to a longer-term approach. NPF4 has a 2045 target, whereas a lot of local development plans have much shorter targets than that. That can play a role.

I am sorry if that was unclear. I went off on a tangent there.

The Deputy Convener: It was a helpful tangent, Ellie. We will listen back to your evidence and we will consider it. It all helps the committee to form its views, so thank you.

Emma, do you want to add anything?

Emma Hunter: As you said, it is worth noting that the Welsh act is a quite different piece of legislation. It involves the creation of objectives and the taking of concrete steps towards achieving them, so it is quite difficult to compare.

One of the lessons that can be taken from that is that, as you have mentioned, convener, the 2015 act has been in place for 10 years and it has

not created a system-wide change. Legislation that perhaps has weaker or less clear duties therefore needs to be considered to see how effective it will be if something with stronger requirements and clearer wellbeing tied to objectives has not led to that system-wide change.

Jenny Munro: The Welsh act has many positive aspects that we could take forward in Scotland. I have a few examples, and they will probably come up in further questions as we move along. The Welsh act appears to take a much stronger stance on future generations, which is important. It also seems to take a more rounded approach to the definition of sustainable development by including wellbeing in it and linking it to the seven wellbeing goals rather than setting a rigid set of definitions.

From speaking with some of my Welsh colleagues, I know that what has been particularly helpful is how the definition of sustainable development has been linked with the implementation of the sustainable development principle, which sets out five key ways of working that allow public bodies to demonstrate how they have pushed forward the goals of the legislation. The five ways of working are collaboration, integration, involvement, long term and prevention. From what I have heard from colleagues in Wales, that is brought up a lot, so it is given significant weight.

09:15

Marie McNair (Clydebank and Milngavie) (SNP): In the interests of time, I will be brief. If you do not really want to answer a question—if it is not relevant to you—please do not do so.

I will start with Jenny Munro. I want to ask about the definition of public bodies and the duty on public bodies. In section 1, is the definition of public bodies appropriate? Should it include all those who contract with public bodies?

Jenny Munro: To be honest, we did not have a strong view on that. The only thing that I would say is that the term “public bodies” is defined elsewhere, and we need to be consistent. That comes back to the policy cohesion point that was made at the start of the session. However it is defined, it needs to be consistent with how it is defined elsewhere.

I do not have strong views on extending the definition out to contractors, but I would suggest that, if the public body has a duty, that would include its decision to contract out and who it chooses to be its contractors. However, I have no strong views on that.

Marie McNair: That was helpful.

Duncan Thorp: It comes back to the point about coherence. In the Community Wealth Building (Scotland) Bill, public bodies and definitions are listed, so it is about making sure that the definition is aligned across legislation.

I am not too sure about the point about contractors—that is up for debate. Certainly, the definition of public bodies makes sense, as long as it is aligned with other legislation. That is the key point.

Ellie Twist: It might be helpful to ask whether there is a reason why the definition of public bodies is not aligned with the Climate Change (Scotland) Act 2009 definition of a public body, which is in section 44(2). I think that that follows the definition in the Freedom of Information (Scotland) Act 2002, which is in section 3. That might be a helpful alignment to make.

Marie McNair: Thank you.

The witnesses’ written evidence suggests that the duty

“to have due regard for the need to promote wellbeing and sustainable development”

could allow adherence to be something of a tick-box exercise. Do you want to take this opportunity to set out those concerns and how they could be addressed in the bill?

Duncan Thorp: It comes back to making sure that the definitions are very clear. It is about getting clarity around the definitions, so that it flows from there.

Jenny Munro: I understand the concerns about adherence becoming a tick-box exercise. I am aware that, in the bill, there is also the proposal for the commissioner to “prepare and publish guidance” on what public bodies would need to do to fulfil their duties, so the definition could probably be clarified through that guidance. We do not have any particular concerns about the “have regard to” aspect of the bill.

Emma Hunter: Obviously, “have due regard to” duties are inherently weaker than, for example, some duties in human rights law not to act incompatibly, so “due regard” duties risk being slightly less effective in how they impact public bodies’ actions, but that is not to say that they cannot be effective in some ways.

However, our biggest concern would be a duplication or confusion with embedding these new “due regard” duties. As we will come to later, there are already new duties around compliance with human rights, so, if we add an additional “due regard” duty, we need to consider a wellbeing definition that loosely correlates to human rights, or there is a risk of that not being particularly effective.

Marie McNair: That was really helpful.

Ellie Twist: In our submission, we said that “have regard to” holds more procedural than substantive weight and, in practice, this duty could be reduced to a note in a meeting minute, which is what I am sure we would all like to avoid. That may sound cynical, but that is how UKELA has approached this.

One option to strengthen the “have regard to” duty could be to replace it with “have due regard” or “further”. Both phrases have been interpreted by the courts. The term “have due regard” was interpreted quite strongly in 2013 in the case of *Bracking and others v Secretary of State for Work and Pensions*, which says that the duty must be

“exercised in substance, with rigour and with an open mind”;

that

“It is not a question of ‘ticking boxes’ ”;

and that it

“must be fulfilled before and at the time”

a decision is being taken. I think that we can all agree that that would be a very beneficial provision to have, in order to strengthen the duty.

Section 1 of the Nature Conservation (Scotland) Act 2004 creates a duty for public bodies and office-holders

“to further the conservation of biodiversity so far as it is consistent with the proper exercise”

of their functions. That is a duty to “further”, rather than to “have regard to”.

In 2023, NatureScot released its most recent “State of Nature” report, which is

“the most precise scientific report on Scotland’s nature”.

The report highlighted that, in the 10 years prior,

“43 per cent of ... species have declined strongly.”

At the time of the report’s release, which was nearly 20 years on from the 2004 act, we needed to be looking at tangible aggregate improvements in Scotland’s biodiversity through sustainable development. We have not actually seen those improvements, so we have to ask whether a duty to “have regard to” will carry sufficient weight to change the practice on the ground of public bodies to the extent that we need it to, so that we can fulfil not only our national strategies but our global commitments under the global biodiversity framework.

Marie McNair: I am sorry to put you on the spot, Jenny, but your written evidence stated that the bill

“should support planners in their continued delivery of sustainable development and wellbeing”

but that there is a need to be mindful of existing definitions and obligations. How might planning authorities balance those requirements if the bill is passed?

Jenny Munro: It is a good question. From our point of view, it should never be about balancing those requirements. The word “balancing” assumes that they are somehow in conflict with each other, when we think that there is an opportunity for them to work together and reinforce each other.

We want to ensure that the bill aligns with the current duties and does not create an additional layer of complexity that could, at best, have a duplicating effect or, at worst, create an additional, separate duty that sets different benchmarks in parallel with the duties that are already being delivered to achieve sustainable development and wellbeing outcomes. That would then require a balancing act, which we do not think would be helpful to anyone and certainly does not deliver that level of policy cohesion, which is an objective of the bill.

Marie McNair: Thank you.

The Deputy Convener: I will follow up briefly. I am in danger of putting my knowledge gap on the record. Earlier, Ellie Twist mentioned case law relating to a judge enforcing what “due regard” should mean in practice and saying that it should be substantial, meaningful and tangible. Does the bill have a judicial pathway to enforcement? Earlier, I asked you what teeth the bill had, and you did not mention any judicial route. Can we use that case law meaningfully in relation to this bill?

I am conscious that Jenny Munro has also spoken about the fact that the bill should not give any additional duties. The purpose of the bill, in theory, would be to enforce what we already want to see happen, and that is why I asked the question about teeth. Is there a judicial route? What routes are there for enforcement when local authorities or public bodies are not meeting those responsibilities?

Ellie Twist: Absolutely. If a decision did not consider or “have due regard”, as interpreted by the courts in 2013, there is a potential for that decision to be judicially reviewed. Is that sufficient?

The Deputy Convener: I am just showing my ignorance, but who would seek the judicial review?

Ellie Twist: I would probably have to consult my colleagues back at UKELA, but, rudimentarily, I would understand that to be those who are affected by the decision and those who are involved in the decision-making process.

The Deputy Convener: I am not trying to put you on the spot. If you could come back to us with

some more information, that would genuinely be helpful.

Ellie Twist: Absolutely. I will make a note.

Elena Whitham (Carrick, Cumnock and Doon Valley) (SNP): I want to spend a wee bit of time discussing the definitions of sustainable development and wellbeing. We have already touched on that this morning, and thinking about the issue logically, we probably could have raised it earlier in the questioning process.

The RTPi and UKELA expressed concerns about the definition of sustainable development in their written evidence. I wonder whether Jenny Munro and Ellie Twist could expand on those concerns a little bit more.

Emma Hunter: It relates back to the lessons that we can learn from Wales. The Wales act certainly took a more nuanced approach in its definition of sustainable development, because it is linked to the sustainable development principle, which in turn is linked to the five ways of working and the wellbeing goals.

We see the wellbeing goals as quite similar to our national outcomes, which is why the bill offers an opportunity for us to embed those outcomes, rather than take a whole new approach to how we define wellbeing. The Wales act also uses the Brundtland definition as a baseline, which we can understand, but it also goes beyond it and takes it further, which is what we should do in Scotland as well.

Beyond the Brundtland definition, I understand that the briefing paper that was provided to us in preparation for this session talks about the Brundtland report and includes additional text that refers to planetary environmental limits, which has ultimately not been included in the bill. Ultimately, the definition will be as it has been drafted, which is insufficient. At the moment, the definition of sustainable development is very much linked to how we define wellbeing—they are tied to one another. We are concerned that the bill limits the definition of wellbeing to a set of six entitlements that say nothing about the wellbeing of the environment and the need to live within environmental and planetary limits, which is a flaw. That is certainly where the bill falls short, particularly when it comes to acting for future generations.

Elena Whitham: From a UKELA perspective, what are the concerns around the definition of sustainable development?

Ellie Twist: Our concerns are very aligned with those of the commissioner. The Brundtland definition has been great, but we have to be conscious that it is 35 years old. It might be better if we align ourselves with our European cousins,

because the European Environment Agency has noted:

“Sustainability is about meeting the world’s needs of today and tomorrow by creating systems that allow us to live well and within the limits of our planet.”

We want those planetary boundaries to be emphasised and think that it would be very beneficial to do so.

Elena Whitham: That is helpful, because planetary boundaries, the link to environmental limits and the need to include them in the definitions also came up in last week’s evidence session.

Sustainable development is raised in relation to many different aspects of legislation and outcomes that we are seeking to achieve, but no real definition is agreed. How can we ensure that we collectively understand what sustainable development means? Would the bill be a vehicle to firm up a definition?

Ellie Twist: Simply put, yes. It would be very helpful to have a statutory definition. We have used the concept of sustainable development for decades in Scotland, and we have a pretty great history to be proud of when it comes to integrating the term “sustainability” into our environmental legislation. We were the first nation to do so in the United Kingdom when we passed the Natural Heritage (Scotland) Act 1991, so it would be great to see sustainable development put on a statutory footing so that there is a unified interpretation.

09:30

Duncan Thorp: I agree with that. I will not comment on which definition we should choose, but I come back to the point that consistency is important. The narrative around a lot of the bill has been that there are definitions everywhere, so I re-emphasise that one of the reasons why we want the bill is to get that clarity.

Elena Whitham: The Children and Young People’s Commissioner Scotland’s view is that it does not support a statutory definition of wellbeing as set out in the bill. You explained clearly, Emma, that you believe that we will deliver on wellbeing if we incorporate all the human rights and have a human rights-based approach. Could you expand on that point for us?

Emma Hunter: The definition of wellbeing in the bill reflects, in more vague and general terms, the core principles of a variety of human rights protections that are already set out in law through the Human Rights Act 1998 and the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, as I have said.

We set out some examples in our written evidence. For example, section 3(1)(a) of the bill refers to

“personal dignity, including respect for ... choices and beliefs”,

which largely reflects the right to private and family life, freedom of thought, conscience and religion, and freedom of expression, which are protected in both the European convention on human rights and therefore the Human Rights Act 1998, and the UNCRC. It also reflects the children’s right to be heard under article 12 of the UNCRC.

In our view, existing human rights laws in Scotland provide a framework for ensuring that children and adults, now and in the future, have their rights protected and fulfilled. Given the strong accountability mechanisms that are associated with those protections, we do not think that a less clear and less onerous duty to promote wellbeing will be effective. We are concerned that, at best, it is confusing and, at worst, it will be unhelpful. Given the recent nature of the human rights protections, particularly under the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, a lot of embedding still needs to be done, so we do not think that it is helpful to add that additional layer at this time.

More generally, as we have said previously, we consider defining wellbeing in legislation to not necessarily be helpful. In our view, policy is more appropriate. The matter of wellbeing exists across the policy landscape in lots of different ways, and we think that it can be useful there. We are less convinced about its definition in legislation.

Elena Whitham: Do you think that the definition of sustainable development as set out in the bill could stand alone in the absence of a definition of wellbeing in the bill?

Emma Hunter: I defer to others in relation to strengthening the definition of sustainable development but, in our view, we would not want it to refer to the concept of wellbeing. If it continued to refer to the concept of wellbeing without wellbeing being defined in the bill, that would be unhelpful, too.

Elena Whitham: Does anybody else have any comments on that point?

Jenny Munro: As the bill is currently drafted, a definition of sustainable development could not stand alone without a definition of wellbeing, because the former is intrinsically tied to how we are defining wellbeing.

I agree with what has been said. We do not agree with how wellbeing has been defined, and we think that it would be much more helpful to link it directly to the national outcomes and to take

account of and align it with how wellbeing has already been discussed and the work that is already being done around defining what we mean by wellbeing. It is such a multifaceted term that means many different things to different people, so to try to rigidly define it against a set of six criteria—we do not disagree with any of them, but the term goes way beyond that—is not helpful, as has been said.

Alexander Stewart (Mid Scotland and Fife) (Con): In written evidence, witnesses have been clear when it comes to support for the new commissioner. It would be good to get a flavour of how the new commissioner’s role, if it were established, might effectively align with those of other commissioners. I come to Emma Hunter first, since she is from a commissioner’s office.

Emma Hunter: We have not supported proposals for a new commissioner under the bill because of the concerns that I have set out about the basis of the wellbeing duty and the confusion that it would create.

Moreover, we have the Scottish Parliamentary Corporate Body commissioner landscape review recommendations and, in our view, it has not been evidenced that there is a real need for a new commissioner. Those recommendations specifically stated that creating bodies should be considered as a last resort, when no other effective mechanism is available. That has not been shown to be the case here, and we favour greater consideration being given to how best to embed sustainable development and strengthen existing duties.

As I have already vaguely said, we are quite concerned about the risk of overlap with our office and that of the Scottish Human Rights Commission, because of the wellbeing duty uncertainty that I highlighted and the confusion that would be caused not only for us in exercising our statutory functions but for public bodies in trying to comply with duties and demonstrate compliance.

Duncan Thorp: The Finance and Public Administration Committee’s report on the commissioner landscape is quite important; it talked about taking a strategic approach to the commissioner landscape. To be honest, I think that that is really important at this stage, because we are talking about creating a new commissioner when we just created another one only recently, and there is talk of an older people’s commissioner and a commissioner for disabled people.

Lots of conversations and developments are happening in the commissioner landscape, and it is worth stopping—in a sense—to look at the whole landscape, where we are, where the

duplication lies, where the overlap is and where we can merge commissioners or bring them together in some other way. That might not mean having mergers, but it is really important that we find some other way.

Alexander Stewart: Others have told us in evidence that other methods of oversight and accountability might be available—indeed, we heard that from Carnegie UK last week. Do you have any thoughts on options for accountability and oversight that do not require a new commissioner? Emma Hunter told us why she does not think that there should be a new commissioner. Will you give us any options that would not require a new commissioner?

Emma Hunter: We do not have any specific proposals for oversight of any sort of sustainable development duty. Regardless of what sort of oversight mechanism existed, our concerns about the bill would remain.

Alexander Stewart: Does anybody else want to comment?

Duncan Thorp: What I would say, more than anything else, is that the powers and responsibilities of the proposed commissioner should be somewhere. What we are trying to achieve with the bill with regard to future generations is really important, but the question is about where the responsibility should sit. That does not necessarily mean creating a new commissioner; it could, as I have said, be about giving other commissioners more powers. However, what we are trying to achieve with the bill is really important.

Jenny Munro: We at RTPi Scotland are broadly supportive of the commissioner role. I take the point that there might be better ways of undertaking and managing accountability and oversight—we certainly think that accountability and oversight are important.

Whichever mechanism is used for delivery, it needs to be independent, transparent, collaborative and visible. It needs to act as a support to enhance awareness, accountability and scrutiny, instead of duplicating or adding to the work that is already being done by public bodies and others to deliver sustainable development and wellbeing outcomes. Whatever is decided about the method that should be used, what is most important is that those principles are being taken forward.

Alexander Stewart: The Auditor General for Wales carries out a number of the functions that the bill covers; he looks at whether public bodies have acted in accordance with the Welsh sustainable development principles and sets out how they have met their objectives. Each public body in Wales is required to be examined once in

a five-year reporting period. Given what the Auditor General for Wales does, could such a mechanism be part of Audit Scotland's landscape?

Emma Hunter: We definitely see potential for that option to be explored, but I cannot say more than that. We have no specific view on that.

Alexander Stewart: Does anyone else have any views? I see that you are all content. Thank you.

Carol Mochan (South Scotland) (Lab): I am interested in hearing people's views and thoughts on the general function of a future generations commissioner, if we were to have one, which is described in the bill as promoting

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

Should that definition be broader? Is it manageable? What are people's views on it?

Jenny Munro: We feel that the function does not go far enough and that the language that is used in the Welsh act is far stronger. The drawback of the way in which the function is worded in the bill is that it does not seem to have a strong emphasis on protecting the wellbeing of future generations, despite the title of the commissioner's role. The Welsh act certainly goes much further; it references promoting but also says that the commissioner should

"act as a guardian of the ability of future generations to meet their needs, and ... encourage public bodies to take greater account of the long-term impact of the things that they do".

That is a much more strongly worded function, which we would benefit from in Scotland.

There needs to be a stronger emphasis in the bill on the future generations element. Even the way in which wellbeing has been defined in the bill, with the six entitlements, seems to focus more on current generations than on future generations. If we define wellbeing in those rigid terms and if we are not clear about the commissioner's function in relation to the future element, the bill will fall short.

Duncan Thorp: I agree with that point on strengthening the wording in the bill—that is really important. It feeds into the practical policy implementation question about what happens on the ground. That is a general issue, which I talk about a lot. The clearer and more specific legislation is and the more it has outcomes, the better the implementation will be in practice.

Carol Mochan: Some of my other questions are quite similar. In particular, we had evidence that suggested that some of the powers feel more like those of inquiry than investigation and that the

ability to investigate could be strengthened. Does anyone have a view on that?

Ellie Twist: An inquiry process would generally be more welcomed to strengthen the provisions. I fully agree with what colleagues have said. It would also incentivise public bodies to ensure that their decisions are made in accordance with the bill as far as they possibly can be.

Emma Hunter: The investigation powers that are set out in the bill largely mirror the powers of our office, which we view as investigation powers. I am not sure that I can offer much more comment on what those powers should be.

Carol Mochan: The bill allows the commissioner to

“take such steps as the Commissioner considers appropriate”

when seeking to resolve a matter without recourse to an investigation. Given that you have said that the powers are similar to those of your office, what would those steps look like?

Emma Hunter: I can only really speak for the office of the Children and Young People’s Commissioner Scotland. For us, the approach largely depends on the issue. It could be a letter seeking a particular outcome or some sort of assurance over a process, or it might be a request for the provision of information. It varies by context and issue.

Carol Mochan: Overall, what opportunities would arise from a commissioner being required to

“keep under review the law, policy and practice relating to wellbeing and sustainable development”?

What might the challenges of that be?

09:45

Jenny Munro: Resources are always a challenge. The commissioner would need to be properly resourced with an adequate team in place to ensure that the functions are fulfilled.

We do not have strong views about investigations versus inquiries. Investigations potentially suggest that there has been some wrongdoing that has warranted the initiation of an investigation, whereas inquiries are more general exercises about knowledge gathering. We have not taken any issue with the details that are set out in the bill about what the steps would be; it comes down to semantics, really. I have no other points to add.

Carol Mochan: Thank you—that was a helpful point about inquiries versus investigations.

Emma Hunter: There are practical challenges for any commissioner in terms of resources and prioritisation. I briefly reiterate that the major

challenge is that, because of its breadth, the definition of wellbeing could cover a wide variety of legal and policy issues, many of which are covered by other bodies, including us and the SHRC.

The Deputy Convener: I was interested in the answers to Carol Mochan’s question about the general function of the proposed commissioner being

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

Emma Hunter talked about the possibility of overlap between commissioners. Could there be a situation in which the Children and Young People’s Commissioner was looking at aspects of public bodies that did not meet some of the requirements that are in the bill? You mentioned the Scottish Human Rights Commission. In relation to the definition of the proposed commissioner’s functions—I may be hinting at nothing here—can you give a tangible example of where there could be an overlap? I know that this is theoretical because the commissioner does not exist yet, but where might overlap occur in practice?

Emma Hunter: Will you repeat the definition?

The Deputy Convener: The bill says that the function is

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

That is the overarching intention for the function of the future generations commissioner, as it is outlined in the bill. Can you see a situation in which that definition and those functions could overlap with or rub against the functions of another commissioner or public body?

Emma Hunter: I definitely can. As I noted, the definition of wellbeing covers a wide range of human rights. I may not be able to give a specific example. The bill would add a layer to anything that we might do in relation to legislation that covers a range of children’s rights or human rights issues, which are already the responsibility of the Children and Young People’s Commissioner and the Scottish Human Rights Commission.

There is also potential for overlap in our investigation powers, in part because of the breadth of that definition and in part because, as I understand it, the investigation powers that are set out in the bill do not have the limitations that the powers in our legislation do. We are not able to carry out an investigation when—I am sorry that I do not have the exact wording in front of me—it would duplicate what is in another body’s remit.

This bill's investigation power is not limited in that way.

The Deputy Convener: If you wanted to reflect on the question and write to us, that would be helpful. It is difficult because we have a bill that may become statute, so we are looking for concrete examples of things that, by definition, do not exist but could happen in the future.

I will ask about the costs that are set out in the financial memorandum. I get that you are all here to talk about the policy intent, but we have to ask about the costs. From my notes—if I can read my own handwriting—I see that the establishment costs are about £800,000 and the running costs are about £1.2 million. As things stand, the running costs for the Future Generations Commissioner for Wales are about £1.8 million.

Do the witnesses have any reflections on whether those costs are appropriate? Are they too low or too high? Last week, I asked witnesses to comment on whether the proposal was value for money. I ask Duncan Thorp to respond first, and I will also ask Emma Hunter, on the basis that she is directly involved in the running of a commissioner's office.

Duncan Thorp: I come back to the point about the costs of the general commissioner landscape. I think that the Finance and Public Administration Committee's report said that the cost of the commissioners who are directly responsible to the Parliament is £16.6 million. It is also worth bearing in mind that the cost of the commissioners is increasing over time.

We are talking about setting up a new commissioner, which would have a budget, as you mentioned, so the question is what savings could be made if we were to merge or bring together existing commissioners—I am sorry; I know that a commissioner is represented on this panel of witnesses—such as the Children and Young People's Commissioner Scotland and the Scottish Human Rights Commission, where there is already overlap. A new commissioner could create more duplication and more overlap so, in that context, we could look at cost savings and not just the cost of setting up a brand-new commission.

The Deputy Convener: May I nudge you more on that helpful answer? Is there a possibility of attributing some of the responsibilities of the commissioner that would be established to existing commissioners and broadening their remits, rather than setting up a new commissioner?

Duncan Thorp: Yes—it is absolutely possible that the powers and responsibilities that the bill proposes could sit in the offices of other commissioners.

The Deputy Convener: Could any other bodies reflect on that idea? For example, we have the Scottish Environment Protection Agency and Environmental Standards Scotland, so we have a pretty cluttered landscape in that regard. Do you have further reflections on that?

Duncan Thorp: The three obvious roles to consider, which we have mentioned, are those of the Scottish Human Rights Commission, the children's commissioner and this proposed commissioner. The biggest overlap seems to involve those three but, as you said, there are other commissioners whose powers and responsibilities overlap.

We need to use the strategic review of the commissioner landscape to examine and plan the approach better. A proposal that was made to me recently was to have a commissioners office for Scotland, which would be one administrative body that dealt with back-office functions, such as human resources. All the commissioners could feed into that as teams, so one public body would underpin all the commissioners.

The Deputy Convener: I feel as though I am targeting you now, Mr Thorp, so I apologise for pursuing this with you further. Would it make sense to rationalise commissioners in that way before we set up another commissioner? For example, yesterday, the Parliament passed the Land Reform (Scotland) Bill, which created a new commissioner, which will sit within the existing Scottish Land Commission in order to share back-office functions and make cost savings. It is a chicken-and-egg situation—what should we do first?

Duncan Thorp: I am not sure. I think that the Finance and Public Administration Committee report said that we ought to do the review before we set up anything else. I think that the committee basically said, "Let's stop at this point and review things before we set up other commissioners."

The Deputy Convener: Emma Hunter, do you want to reflect on that?

Emma Hunter: Yes. To come back to your original question, the Children and Young People's Commissioner Scotland does not have a comment on the costs, because, in our view, and with reference to the recommendations of the review of the commissioner landscape, we do not think that there is a good case for a future generations commissioner.

With regard to how the duties in the bill could sit in the existing landscape, as I have said, we do not think that there is value in a wellbeing duty being defined in that way because of the confusion that could be created with human rights law. There is certainly value in considering sustainable

development duties, but you need to think about coherence.

With regard to the idea of human rights commissioners taking on a sustainable development duty, we are not convinced that there has been a sufficiently clear consideration of the options, particularly with regard to resources.

The Deputy Convener: I am about to bring in Jenny Munro on a specific question about the RTPI, but I will flag my final question. Will there be opportunities—if a commissioner's office worked well—for long-term cost savings? I will leave that question hanging there—I will ask you all about the long-term cost savings of such an investment, as it would be helpful to get comments on that.

Jenny, I did not want to have you here without asking you about pressures on local authorities and planning departments. I suppose that, theoretically, this could be another pressure on local authority planning departments. Are they well placed to deal with what the bill would introduce, whether that is a new responsibility or a clear statutory focus on an existing responsibility? Are there any financial implications for local authorities?

Jenny Munro: From our point of view, when we consider costs, we are thinking about what the potential cost implications will be for local planning authorities, which are under a lot of pressure at the moment in relation to their resources. There is always the potential that the commissioner role will provide support and future cost savings, but that depends on how the bill is taken forward.

It comes back to the point about policy cohesion and ensuring that the bill aligns with and reinforces existing duties and work that is already being undertaken to promote sustainable development and wellbeing. Those things are already deeply embedded in our national planning framework 4; local planning authorities are already driving forward the objectives of NPF4 and the national outcomes.

If the bill can be redrafted to align with those, it could be a positive step in supporting local planning authorities with what they are already doing, to provide useful oversight, to acknowledge the work that is already being undertaken and, potentially, to identify where things need to change and improve in a supportive and non-punitive manner. However, as the bill is currently drafted, it could potentially have the opposite effect of creating additional parallel duties that would place additional resource pressures on local planning authorities.

The Deputy Convener: Thank you for answering both questions at the same time, which was very helpful. What are the opportunities and potential longer-term cost savings in making that

investment now? I will ask Duncan Thorp first and then go along the witnesses.

Duncan Thorp: It is a fair point. This is not something that we have mentioned already, but the proposed commissioner is different from other commissioners in the sense that, if it is implemented effectively, it will be about taking a long-term view, future generations and saving public money. That is an important point. The aims, ambitions and objectives of the bill could be within other commissioners' offices, as I have already said; however, regarding the principles, the proposed commissioner would be absolutely unique and different compared with the other commissioners and what they do. Therefore, in that sense, we are supportive of it.

Ellie Twist: I echo Duncan's points, but UKELA has no specific views on the financial implications further to that.

Emma Hunter: Similarly, I have no views on the financial implications, besides the concerns that we have already set out.

The Deputy Convener: I thank all four of you. However, you are not finished yet. Sarah Boyack, the member who is in charge of the bill, has sat patiently throughout all of this. I know that she will be bursting to ask you lots of questions, and we have a wee bit of time.

Sarah Boyack (Lothian) (Lab): Thank you, convener—I know that we do not have unlimited time.

It has been helpful to get your reflections on the bill, particularly on the areas where the bill could be amended or strengthened. I will go back to the issue of definitions. In the proposal, the concept was to have a definition of the public duty and then a commissioner, which is a logical approach. Sitting alongside that were the Scottish Government's proposals, which it has now pulled back on. I am interested in your comments about the potential alignment between the national performance framework and the duties in the bill. If the duties were to not be met, there is the issue of accountability and how you increase awareness. Would such alignment strengthen the bill? It is something that I am prepared to consider.

Jenny Munro: Yes, we think that it is critical that there be alignment between the bill, the national performance framework and the national outcomes. In particular, the national outcomes and the NPF are under review. That work needs to be carried out in alignment with the bill and vice versa—they need to work together. Otherwise, what are we doing? The national outcomes and the national performance framework are widely considered to be our wellbeing framework in Scotland. That should surely be the starting point

for how we define wellbeing, if we are defining it at all.

Duncan Thorp: I agree with that. The alignment makes sense but we should also look at other policy areas. There is a lack of alignment in policy in general. As I mentioned previously, there is certainly big overlap in the Community Wealth Building (Scotland) Bill, as I am sure that there is in other legislation, such as the Land Reform (Scotland) Bill. We need to make sure that there is alignment, most obviously between the national performance framework and the bill.

10:00

Sarah Boyack: There is also the Natural Environment (Scotland) Bill on biodiversity. We are passing legislation all the time, and the need for policy coherence comes through very strongly. I will reflect on that.

Do Ellie Twist or Emma Hunter have any comments on that?

Ellie Twist: We are in agreement.

Emma Hunter: As I said earlier, we support consideration of how sustainable development could be strengthened through consideration of the national performance framework. It depends on how sustainable development is defined and tied to any additional wellbeing duty in the bill. If it was to be about tying a more concrete sustainable development duty to the national performance framework, it would be worthy of consideration.

Sarah Boyack: I was going to ask about the potential of the commissioner. I am conscious that we have about 131 public bodies in Scotland. We have talked about raising the bar on advice, guidance and investigations, and expecting not just warm words but action—your reflections on the duty to “have due regard” were helpful—and about the extent to which things are changing. If there is an opportunity to support those organisations, will that make a difference? You have talked about somebody needing to do it, and I suggest that it should be the future generations commissioner. Do you have any reflections on that?

I am saying that as an ex-planner, because the world has changed since I was a planner. I taught planners, and it is about how sustainable development keeps up with technological change, science and what is happening on the planet. I am thinking of the commissioner as a resource for different organisations. Is that something that witnesses relate to?

Jenny Munro: The commissioner role certainly has the potential to be a useful support. It depends on how the resources that are given to it are used. As you say, there are many public bodies that deal

with a vast range of related areas that link to wellbeing. If an office is created rather than the commissioner just being an individual person, one of the challenges would be to ensure that it covers all areas equally.

I do not have any concrete evidence to back this up, but I have had conversations with people in Wales about their commissioners, and sometimes the impact of the role can depend on who is in it and their area of interest and focus. A bit of consideration would have to be given to that.

I do not know what the answer is, but it could certainly be a challenge. At the same time, depending on how the proposed commissioner is taken forward, it could be a useful support.

Sarah Boyack: Duncan, do you want to come in?

Duncan Thorp: Could you repeat the question?

Sarah Boyack: It was about the range of public bodies and the urgency of implementing sustainable development and taking a more joined-up approach to policy coherence. The Christie commission was nearly 15 years ago, and we did not take that forward. It is thinking about that policy coherence and the potential of the proposed commissioner to support the range of organisations that do not have sustainable development or wellbeing on their agendas.

Duncan Thorp: It could be an umbrella body that feeds into other organisations, influences them and helps them to carry out their duties. There is definitely a case for that.

Sarah Boyack: Ellie, do you have any thoughts?

Ellie Twist: I would echo what Duncan Thorp said.

Sarah Boyack: Emma?

Emma Hunter: No.

Sarah Boyack: On the issue of alternative options, the Carnegie UK report contained a range of different ideas, such as having a conveners forum in the Parliament to ask MSPs to do this work.

I spoke with representatives of Audit Scotland, and it would need resource, because it does not have the capacity at the moment. Other suggestions involve a Government-appointed advisory council and an independent round table. Do the witnesses have any thoughts about those alternatives and about the benefits and disbenefits of having a commissioner as a different way of doing things?

It seems not. I could probably ask questions all day, but that might not be tactically smart.

The Deputy Convener: You can have one more if you want.

Sarah Boyack: I return to the issue of future savings, how you support organisations and how you enable them to be more efficient, taking a joined-up-thinking approach. Do any of you have any thoughts on that?

Duncan Thorp: We are talking about early intervention and prevention, and long-term planning, which is often not what is done. In our sector, that is how we think—it aligns with long-term thinking. One of the strengths of having such a commissioner is that it gets beyond the election cycles. We are basically working the same systems, which are short-term systems. The proposed role could be a way of squaring that circle.

I do not know if that answers your question.

Sarah Boyack: It is partly about investing to save and partly about the nature of climate change, which is now happening.

Duncan Thorp: Absolutely. It is about making an investment. The aims and objectives of the bill represent a long-term investment for that purpose.

Ellie Twist: It extends beyond an investment; it is vital to protect the wellbeing of future generations. As you have said, Ms Boyack, we are in a critical moment in a climate emergency and a biodiversity crisis, and we need to take actions to protect and to think in the long term for the future people of Scotland.

Sarah Boyack: I am thinking about those organisations that are under financial pressure. You are asking them to do something more, so the idea of having a duty raises the issue up their agenda while supporting them: they are provided with advice and guidance to enable them to implement change that will actually be beneficial—although that would not be on their agenda. That is the concept.

Emma Hunter: I would briefly reiterate what I said previously. We definitely support the consideration of options to embed sustainable development in policy development in Scotland, but we do not think that having a commissioner is the correct approach—referring both to the consideration of options elsewhere and to it being a—

Sarah Boyack: What would be your alternatives to the sustainable development principles for the 131 public authorities? What would be your alternative approach?

Emma Hunter: We would defer to organisations working on sustainable development. I would reiterate that, in our view, there would be too much overlap with a commissioner looking at wellbeing

and sustainable development as proposed under the bill, so such a commissioner is not necessary. However, we support the principles of seeking to embed sustainable development across public bodies.

Sarah Boyack: Would a memorandum of understanding offer an appropriate way to approach that, considering the role of the Children and Young People's Commissioner Scotland and the human rights angle? I have discussed that issue with Audit Scotland, and it does not have the capacity. What about that idea of having a memorandum of understanding, so that you are clear about whose priorities are what and so that you do not overlap?

Emma Hunter: I could not comment on that specifically, but a lot of the overlap is created by the issues that I have raised on the definition of wellbeing in the bill. That is a significant area.

Duncan Thorp: There may be a reframing job to be done with the language. When we think about a “commissioner”, we might automatically think about enforcement. It is not about taking such an approach, however; it is about assisting public bodies and others to do their jobs better, rather than telling them, “Here is another duty for you to enforce.” If we could reframe things in that sense, it would give the proposal for a commissioner a very different flavour.

Jenny Munro: I agree with that. We should not be placing additional duties on public bodies, because they should already be doing a lot of work in this area anyway—and I think that they are. If we were to create a commissioner role, it should be a supportive role that helps bodies to do better, ensuring that they meet their existing obligations and duties, rather than piling on an additional layer.

Sarah Boyack: Thank you for that—and thank you, convener: I was able to sneak in that extra question.

The Deputy Convener: I did notice, Sarah, but I was not going to say anything.

I thank all the witnesses for their time this morning. Your evidence has been very helpful for the committee.

I ask you to stay seated for a moment while we dispose of one more agenda item, which will be very brief, before we move into private session. If you could stay where you are for the moment, that would be very helpful.

Subordinate Legislation

Council Tax Reduction (Miscellaneous Amendment) (Scotland) (No 5) Regulations 2025 (SSI 2025/275)

10:10

The Deputy Convener: We move to our next item of business, which is consideration of a Scottish statutory instrument. The regulations before us are subject to the negative procedure. Do members have any comments on the instrument?

It seems not—although I thought that you did just for a moment, Mr Balfour.

In that case, I invite the committee to agree that it does not wish to make any further recommendations in relation to the instrument. Are members content with that approach to the regulations?

Members *indicated agreement.*

The Deputy Convener: That concludes our public business for the day.

10:10

Meeting continued in private until 11:22.

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