

# **WELLBEING AND SUSTAINABLE DEVELOPMENT (SCOTLAND) BILL**

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## **POLICY MEMORANDUM**

### **INTRODUCTION**

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is published to accompany the Wellbeing and Sustainable Development (Scotland) Bill introduced in the Scottish Parliament on 27 March 2025.
2. The following other accompanying documents are published separately:
  - Explanatory Notes (SP Bill 63–EN);
  - a Financial Memorandum (SP Bill 63–FM);
  - a Delegated Powers Memorandum (SP Bill 63–DPM);
  - statements on legislative competence made by the Presiding Officer and the Member in Charge of the Bill (SP Bill 63–LC).
3. This Policy Memorandum has been prepared by the Non-Government Bills Unit (NGBU) on behalf of Sarah Boyack MSP (the Member) to set out the Member's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### **POLICY OBJECTIVES OF THE BILL**

4. Society is currently facing enormous challenges that threaten the wellbeing of both current and future generations. Climate change is widely recognised as being arguably the most significant and existential of these challenges. Since 2009, the Scottish Parliament has passed three major pieces of climate change legislation: the Climate Change (Scotland) Act 2009,<sup>1</sup> which created the statutory framework for greenhouse gas emissions reductions in Scotland, including through the setting of targets; the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019,<sup>2</sup> which amended the 2009 Act in response to the Paris Agreement;<sup>3</sup> and, most recently, the Climate Change (Emissions Reduction Targets) (Scotland) Act 2024, which introduced the framework for a carbon budget-based approach for setting emissions reduction targets up to 2045.<sup>4</sup> There are currently several public bodies dedicated to advising the Scottish Government on climate action,

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<sup>1</sup> [Climate Change \(Scotland\) Act 2009](#)

<sup>2</sup> [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#)

<sup>3</sup> [The Paris Agreement | UNFCCC](#)

<sup>4</sup> [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2024](#)

including the Committee on Climate Change, the Just Transition Commission and Scotland's Climate Assembly.<sup>5</sup> Despite legislative developments and repeated commitments by the Scottish Government to sustainable development and ensuring a just transition to net zero for the wellbeing of future generations, the Climate Change Committee's most recent report to Parliament on progress in reducing emissions found that Scotland's ambitious climate goals are not being achieved.<sup>6</sup> The Member recognises that some progress has been made in this area, but she believes that much more needs to be done to embed sustainable development and wellbeing as primary considerations in public policymaking to accelerate this progress and ensure that Scotland achieves its climate change targets, while enhancing wellbeing for current and future generations. The Member believes that her Bill will foster a joined-up approach to sustainable development and wellbeing across the public sector, which will complement and enhance existing national frameworks for tackling the challenges faced by society, including climate change. As such, she feels it is her duty to progress this Member's Bill.

5. The Member believes that, too often, the decisions of public bodies are driven by short-term goals, to the detriment of the environment, the planet's natural resources, society, and collective wellbeing. In her view, past decisions influenced by this culture of short-termism are now having visible negative consequences for the generations of today, notably through the climate emergency. Despite global initiatives, such as the United Nations (UN) Sustainable Development Goals (SDGs),<sup>7</sup> and national policies such as Scotland's National Performance Framework (NPF), which align with the SDGs to promote collective wellbeing in Scotland,<sup>8</sup> the Member believes that public bodies' decision-making remains too focused on achieving short-term gains, which risks creating unintended consequences and challenges for future generations in Scotland and throughout the world.

6. Short-termism in public service delivery was recognised by the Christie Commission in 2011 as a key shortcoming, which undermines the capacity of public services to produce better outcomes and makes it difficult to prioritise preventative approaches that would lead to better outcomes.<sup>9</sup> The Member believes that, almost 14 years later, not enough has been done to address the culture of short-termism and its negative impact on long-term outcomes.

7. The Member acknowledges that public bodies face significant resource challenges and competing pressures, which can hinder their ability to assess the long-term impact of their actions and decisions, making it tempting to prioritise short-term benefits. She believes that, despite the SDGs and NPF, a culture of short-termism persists largely due to a lack of policy coherence for sustainable development (PCSD) in public bodies' decision-making. According to the UN, PCSD means:

“... ensuring that different government policies are aligned with and supportive of each other to achieve sustainable development outcomes across [...] economic, social and environmental dimensions [...] which requires] holistically tackling development challenges, developing mutually reinforcing policies across all relevant sectors to

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<sup>5</sup> <https://www.gov.scot/policies/climate-change/>

<sup>6</sup> [Progress in reducing emissions in Scotland - 2023 Report to Parliament - Climate Change Committee](#)

<sup>7</sup> [THE 17 GOALS | Sustainable Development](#)

<sup>8</sup> [National Performance Framework | National Performance Framework](#)

<sup>9</sup> [3. REFORMING OUR PUBLIC SERVICES - Christie Commission on the future delivery of public services - gov.scot](#)

effectively achieve national sustainable development goals, and minimizing the negative impacts that policies in one area can have on another”.<sup>10</sup>

8. In other words, PCSD involves different parts of government (i.e. public bodies) collaborating, identifying common goals, and ensuring that the work of one part does not undermine the work of another.<sup>11</sup> This is a complex endeavour, as public bodies often have wide-ranging responsibilities and undertake a substantial range of activities in the exercise of their functions, which will inevitably lead to conflicts and challenges where the impact of a decision in one policy area has an impact on another. Scotland’s International Development Alliance (SIDA) illustrates this point in its report, *Improving Policy Coherence in Scotland*:

“For example, giving subsidies to a specific industry, such as farming or fishing, may help create jobs, but it may also negatively affect environmental conservation. Equally, a government may decide to invest in renewable energy to increase climate action, but in doing so could negatively affect employment without proper consideration of how and when it invests. At an international level, trade policy may assist industry in one country while impacting negatively on people’s livelihoods and the environment elsewhere in the world.”<sup>12</sup>

9. The goal of PCSD, therefore, is to ensure that the possible consequences of the policies and decisions of public bodies, both intended and unintended, are well considered in a way that is holistic and looks beyond any individual public body’s sphere of influence. This involves public bodies working together in a systemic manner to find the best possible solutions to fully consider the impact of their decisions now and in the future. The result of this should be, at least, to ensure that actions or decisions taken by one public body do not undermine any positive actions or progress secured by another; ideally, they should aim to support and strengthen the positive outcomes achieved by one another.

10. The Member believes that her Bill will renew and advance Scotland’s commitment to sustainable development by improving PCSD among Scotland’s public bodies. It aims to enshrine sustainable development and wellbeing in law as key factors influencing public policy development and the actions and decisions of public bodies. The Member believes that short-term wins are too often prioritised in policymaking, as a result of immediate challenges and pressures faced by public bodies, rather than sustainable decisions that would benefit societal wellbeing in the short, medium and long term. She envisages her Bill facilitating a culture shift towards a longer-term approach to decision-making and policymaking, in which public bodies consider the interests of future generations, alongside immediate and short-term benefits.

11. The Bill has three main strands that the Member considers will come together to achieve its policy objectives:

- establishing statutory definitions of the terms “sustainable development” and “wellbeing”;

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<sup>10</sup> [What We Do / Areas of Work / Policy Coherence | Department of Economic and Social Affairs](#)

<sup>11</sup> [Policy Coherence for Sustainable Development - Scotland's International Development Alliance](#)

<sup>12</sup> [Policy Coherence for Sustainable Development - Scotland's International Development Alliance](#)

- imposing a statutory duty on public bodies to consider wellbeing and sustainable development in the exercise of their functions; and
- creating the office of the Future Generations Commissioner for Scotland.

12. Sustainable development is referred to in a significant number of Acts of the Scottish Parliament, yet there is currently no statutory definition of the term.<sup>13</sup> The Member believes that “the breadth of possible definitions of sustainable development [...] and the current lack of a single, overarching statutory definition, despite the term’s use across a diverse range of legislation, demonstrates the need to establish a definition in legislation”.<sup>14</sup>

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

14. Additionally, the Bill creates a new statutory duty which requires public bodies to exercise their functions with due regard for the need to promote wellbeing and sustainable development. Public bodies will be required to assess the impact of their policy intentions on the wellbeing of both present and future generations – including when making decisions and developing policies. The Member envisages that this duty will facilitate a culture change within the public sector, away from short-term thinking towards long-term, sustainable decision-making that maximises wellbeing for current and future generations in Scotland.

15. The Member believes that a new public duty that seeks to embed consideration of wellbeing and sustainable development in public sector decision-making will build policy coherence across the public sector. Currently, the terms “wellbeing” and “sustainable development” are already used for a variety of purposes and in many different policy contexts. The Member believes that establishing statutory definitions of these terms will further strengthen policy coherence by ensuring that there is a consistent understanding of what these terms mean among public bodies in the fulfilment of their duties under the Bill, and in the promotion of wellbeing and sustainable development.

16. Finally, the Bill also establishes a Future Generations Commissioner for Scotland, whose function will be to promote the interests of future generations by promoting sustainable development by public bodies in all aspects of their decisions, policies and actions. Alongside the statutory definitions of “wellbeing” and “sustainable development” and the new statutory duty on public bodies, the Member believes that the establishment of an independent Commissioner will ensure the ongoing achievement of the Bill’s policy aims, fostering a shift towards long-termism in public policymaking. In developing her proposal, the Member has drawn inspiration from the

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<sup>13</sup> Annexe B of the Member’s consultation document on her proposed Bill sets out that there are 35 Acts of the Scottish Parliament that refer to “sustainable development”, but none of these define the term:

[final\\_consultation\\_sarahboyack\\_proposedwellbeingandsustainabledevelopmentbill.pdf](#)

<sup>14</sup> [final\\_consultation\\_sarahboyack\\_proposedwellbeingandsustainabledevelopmentbill.pdf](#)

Future Generations Commissioner for Wales (FGCW), which was established by the Well-being of Future Generations (Wales) Act 2015.<sup>15</sup>

## **BACKGROUND**

### **Sustainable development in policymaking**

17. The Member is of the view that a sustainable approach to policymaking is essential to ensuring that future generations have the resources they need to survive. This, she believes, is particularly important in the context of many of the environmental and social challenges faced in Scotland and globally today, including climate change and the depletion of natural resources, as well as inequality and poverty.

18. In developing her proposal for a Bill, the Member has drawn inspiration from the definition of sustainable development as defined by the United Nations (UN) Brundtland Commission, which is widely understood and applied internationally. The Brundtland Report, entitled *Our Common Future*, defined sustainable development as:

“[...] development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”<sup>16</sup>

19. According to the UN, sustainable development “requires an integrated approach that takes into consideration environmental concerns along with economic development”. It states that:

“Today, there are almost 140 developing countries in the world seeking ways of meeting their development needs, but with the increasing threat of climate change, concrete efforts must be made to ensure development today does not negatively affect future generations.”<sup>17</sup>

20. In 2019, the Scottish Government declared a climate emergency.<sup>18</sup> Since then, many governments across the world have also recognised that the world is in a state of climate emergency.<sup>19</sup> In light of this, the Member believes that a joined-up approach to sustainable development amongst public bodies is essential to protecting the wellbeing of future generations and ensuring that Scotland remains committed to meeting the UN Sustainable Development Goals (explained below at paragraphs 25 and 26).

21. Research by SIDA has characterised sustainable policymaking that centres on the wellbeing of future generations as that which furthers policy coherence for sustainable development and improved human and ecological wellbeing. It sets out the view that:

“This is necessary not only to respond to pressing national challenges and meet the needs of citizens, today, within planetary boundaries, but to ensure that Scotland makes a positive

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<sup>15</sup> [Well-being of Future Generations \(Wales\) Act 2015](#)

<sup>16</sup> [Our Common Future: Report of the World Commission on Environment and Development](#)

<sup>17</sup> [Sustainability | United Nations](#)

<sup>18</sup> [The Global Climate Emergency - Scotland's Response: Climate Change Secretary Roseanna Cunningham's statement - gov.scot](#)

<sup>19</sup> [Climate emergency declarations in 2,364 jurisdictions and local governments cover 1 billion citizens - Climate Emergency Declaration](#)

contribution to people, globally, and enables future generations, both here and abroad, to have their needs met.”<sup>20</sup>

22. The Member agrees with this perspective, and the view that humankind is depleting the planet’s natural resources at an unsustainable rate, in a manner that is impacting the sustainability of the Earth’s natural systems upon which long-term human survival depends.

### **Planetary boundaries and sustainability of natural resources**

23. Research by the Stockholm Resilience Centre analysed the impact of human activity and policy outcomes on the Earth’s “planetary boundaries”, defined as “the safe limits for human pressure on the nine critical processes which together maintain a stable and resilient Earth” and “within which humanity can continue to develop and thrive for generations to come.”<sup>21</sup> The latest analysis of the impact of human activity on these boundaries demonstrated that up to seven of the nine planetary boundaries have already been transgressed in areas including climate change, biosphere integrity and freshwater change, indicating that the planet’s resources necessary for human life are depleting rapidly due to the impact of human activity.<sup>22</sup>

24. The Member considers that legislating for the interests of future generations, and creating a duty on public bodies to have due regard for the need to promote wellbeing and sustainable development, could foster a culture of sustainable policymaking. This approach would consider the longer-term impacts of policies, avoiding ecological, environmental and resource depletion. The Member believes that this would benefit people living in Scotland today and generations yet to be born. By addressing some of the impacts of human activity on the Earth’s planetary boundaries, a stronger culture of long-termism in public policy could help to improve these issues in the short to medium term, while also helping to secure a liveable planet for future generations.

### **UN Sustainable Development Goals**

25. Although sustainability and sustainable development are commonly associated with environmental, ecological and resource issues, the Member is clear that the desired outcome of sustainable development must be an enhanced state of wellbeing throughout society. She believes that sustainable development must have a focus on people as well as the planet, and that in addition to benefitting the planet and society more broadly, it must also have the effect of improving the wellbeing of individuals, families and other groups within society. Therefore, her view is that sustainable development – in addition to the factors impacting wellbeing on a planetary, scientific scale – must also take into account other societal issues that affect wellbeing on a global, regional, national and local scale.

26. To inform her position on sustainable development and wellbeing, the Member has taken into account the United Nations’ 17 Sustainable Development Goals, which were adopted by all UN member states in 2015.<sup>23</sup> These are as follows:

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<sup>20</sup> [Towards a Wellbeing and Sustainable Development \(Scotland\) Bill - Scotland's International Development Alliance](#)

<sup>21</sup> [Planetary boundaries - Stockholm Resilience Centre](#)

<sup>22</sup> [Planetary Boundaries – defining a safe operating space for humanity — Potsdam Institute for Climate Impact Research](#)

<sup>23</sup> [21252030 Agenda for Sustainable Development web.pdf](#)

- Goal 1. End poverty in all its forms everywhere
- Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture
- Goal 3. Ensure healthy lives and promote well-being for all at all ages
- Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
- Goal 5. Achieve gender equality and empower all women and girls
- Goal 6. Ensure availability and sustainable management of water and sanitation for all
- Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all
- Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
- Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
- Goal 10. Reduce inequality within and among countries
- Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable
- Goal 12. Ensure sustainable consumption and production patterns
- Goal 13. Take urgent action to combat climate change and its impacts
- Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development
- Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
- Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
- Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development.<sup>24</sup>

### **Collective and national wellbeing**

27. The multifaceted nature of the concept of “wellbeing” makes it a challenging concept to define, particularly given its various uses and applications. For example, wellbeing can refer to objective and subjective wellbeing;<sup>25</sup> personal, collective or national wellbeing;<sup>26</sup> or wellbeing as a quality-of-life outcome.<sup>27</sup>

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<sup>24</sup> [THE 17 GOALS | Sustainable Development](#)

<sup>25</sup> [Measuring subjective well-being for policy purposes: The example of well-being indicators in the WHO “Health 2020” framework - Mari Hagtvedt Vik, Erik Carlquist, 2018](#)

<sup>26</sup> [Wellbeing & Sustainable Development Bill Consultation - guidance for responding - Scotland's International Development Alliance](#)

<sup>27</sup> [World Health Organisation - Promoting well-being](#)

28. In considering how best to define “wellbeing”, the Member also recognises the need for a practical definition that can be clearly understood by public bodies in fulfilling the new duties created by the Bill. This is reflected in the proposed final definition included within the Bill’s provisions, as set out at paragraph 76 of this Policy Memorandum.

29. The Member considers that improving the nation’s wellbeing is an important policy aim that could be strengthened by progressing this Bill. For example, research into the state of the nation’s wellbeing, conducted by Carnegie UK and Ipsos and published in November 2023, found significant gaps in levels of quality of life between different groups in society in Scotland. The *Life in the UK Index* measured the wellbeing of people across the UK by analysing answers to questions centred on social, environmental, economic and democratic themes, with scores out of 100 allocated under the headings of collective wellbeing, social wellbeing, economic wellbeing, environmental wellbeing and democratic wellbeing.<sup>28</sup> The collective wellbeing score for Scotland under this measure was 61/100, slightly below the UK’s overall score of 62/100.

30. The findings indicated a lower level of wellbeing among young people, disabled people, people who do not own their own homes, and people on lower incomes. 45% of those polled were dissatisfied with current efforts to preserve the environment; 30% could not afford an unexpected expense of £850; and 28% felt unsafe or very unsafe walking alone in their neighbourhood after dark.<sup>29</sup>

31. Chief executive of Carnegie UK, Sarah Davidson, characterised the research as demonstrating an “unequal Scotland” and called for “a long-term commitment to ensuring everyone has what they need to live well in the future”. She continued:

“Carnegie UK is supportive of Sarah Boyack MSP’s proposed Wellbeing and Sustainable Development members’ bill. These proposals are similar to the legislation passed in Wales that created their Future Generations Commissioner [...] We’re right behind new Scottish Parliament wellbeing legislation to introduce more long-termism and co-ordination to our efforts to tackle the biggest challenges of our time. A new Future Generations Commissioner for Scotland would provide a vital counterbalance to the short-term dynamic created by our political cycle. The Scottish Government has emphasised its commitment to a wellbeing approach in public policy. Now is the time for decision-makers at Holyrood to turn warm words into concrete action by strengthening their approach.”<sup>30</sup>

## **Existing law and Scottish Government policy**

### **Use of the terms “sustainable development” and “wellbeing” in existing policy**

32. The term “sustainable development” is used frequently in existing Scottish Government policy, and, on occasion, in legislation. This includes sustainable development as an overarching purpose, aim or function (e.g. the National Parks (Scotland) Act 2000),<sup>31</sup> and legislation which

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<sup>28</sup> [Unequal Scotland revealed in wellbeing snapshot - Carnegie UK urges Scottish decision-makers to focus on long-term outcomes - Carnegie UK](#)

<sup>29</sup> [Life in the UK 2023 - An Alternative to GDP that Measures Wellbeing](#)

<sup>30</sup> [Unequal Scotland revealed in wellbeing snapshot - Carnegie UK urges Scottish decision-makers to focus on long-term outcomes - Carnegie UK](#)

<sup>31</sup> [National Parks \(Scotland\) Act 2000](#)



confers duties relating to sustainable development within specific fields (e.g. the Water Industry (Scotland) Act 2002).<sup>32</sup> The term is prevalently used for a variety of purposes, but does not currently have a statutory definition.

33. Additionally, the term “wellbeing” has a multitude of different meanings and applications in public policymaking, with no single overarching definition consistently used in policy or legislation. For example, the Public Bodies (Joint Working) (Scotland) Act 2014 includes various provisions that focus on improving the wellbeing of individuals through the integration of health and social care services, including the establishment of a set of national health and wellbeing outcomes.<sup>33</sup> Elsewhere, section 96 of the Children and Young People (Scotland) Act 2014 sets out provision on assessing the wellbeing of a child or young person.<sup>34</sup>

34. Stakeholder organisations – including Scotland’s International Development Alliance, Wellbeing Economy Alliance Scotland, Carnegie UK and Oxfam Scotland – have contended that a lack of consistency across legislation and policymaking has diluted the effectiveness of measures taken to ensure that decisions taken are aligned with sustainable development and wellbeing, to the detriment of long-termism in policymaking.<sup>35</sup>

35. Over the last two sessions of the Scottish Parliament, establishing a “wellbeing economy” has been a key ambition behind the Scottish Government’s economic policy.<sup>36</sup> From 2023 to 2024, “Wellbeing Economy” was part of a Cabinet Secretary portfolio,<sup>37</sup> and it is a core element of the Government’s current economic strategy, including its 10-year National Strategy for Economic Transformation, which was published in 2022.<sup>38</sup> The Scottish Government has described a wellbeing economy as “an economic system, within safe environmental limits, which serves and prioritises the collective wellbeing of current and future generations”.<sup>39</sup> The Member’s hope is that, by establishing definitions of both wellbeing and sustainable development in her Bill, it will underpin Scotland’s wellbeing economy to ensure that both principles are central to its development.

### ***The Scottish Government’s proposal for a Wellbeing and Sustainable Development Bill***

36. At the beginning of the sixth session of the Scottish Parliament, the Scottish Government included in its 2021-22 Programme for Government a proposal for a Wellbeing and Sustainable Development Bill, which included provision for a Future Generations Commissioner.<sup>40</sup> The consultation on its proposed Bill closed in February 2024. Similar to the Member’s consultation on her proposal for the present Bill, the Scottish Government’s consultation asked respondents for

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<sup>32</sup> [Water Industry \(Scotland\) Act 2002](#)

<sup>33</sup> [Public Bodies \(Joint Working\) \(Scotland\) Act 2014](#)

<sup>34</sup> [Children and Young People \(Scotland\) Act 2014](#)

<sup>35</sup> [Wellbeing & sustainable development - Scotland's International Development Alliance](#)

<sup>36</sup> [What is a “wellbeing economy”? – SPICe Spotlight | Solas air SPICe](#)

<sup>37</sup> From March 2023 to February 2024: Cabinet Secretary for Wellbeing Economy, Fair Work and Energy (Neil Gray MSP); and from February to May 2024: Cabinet Secretary for Wellbeing Economy, Net Zero and Energy (Màiri McAllan MSP).

<sup>38</sup> [Scotland's National Strategy for Economic Transformation - gov.scot](#)

<sup>39</sup> [Wellbeing economy monitor: December 2023 update - gov.scot](#)

<sup>40</sup> [A Fairer, Greener Scotland: Programme for Government 2021-22](#)

their views on defining wellbeing and sustainable development, and determining an approach for future generations (including the establishment of a Commissioner office post).<sup>41</sup>

37. However, unlike the Member’s proposal, the Scottish Government’s proposed Bill sought to directly strengthen the duties conferred by the NPF as the mechanism through which to embed wellbeing and sustainable development in public policy consideration, as opposed to creating a new overarching public duty.<sup>42</sup> Instead of that approach, this Bill establishes an overarching statutory duty on public bodies to have due regard to the need to promote wellbeing and sustainable development. It does not have any direct impact on the NPF, although, as discussed below, the Member envisages that the Bill will complement and strengthen the functioning of the NPF.

38. Despite the inclusion of a similar proposal in the Scottish Government’s legislative programme, the Member felt that the Scottish Government was not progressing its proposed legislation with the necessary urgency. Therefore, she decided to proceed with the Member’s Bill process to ensure that a Wellbeing and Sustainable Development Bill – which seeks to establish a Future Generations Commissioner, statutory definitions of “wellbeing” and “sustainable development”, and a public duty underpinned by these definitions – will be introduced and scrutinised by the Parliament within the current parliamentary session.

39. The Scottish Government has since confirmed that it does not intend to introduce its own legislation in this area. In evidence to the Scottish Parliament’s Finance and Public Administration Committee on 8 October 2024, as part of the Committee’s consideration of the statutory review of National Outcomes, the Deputy First Minister Kate Forbes MSP said:

“As the committee might know, we will not be introducing a wellbeing and sustainable development bill at this time. We have committed to work across the chamber with Sarah Boyack as her proposed member’s bill develops.”<sup>43</sup>

### **The National Performance Framework**

40. The terms “wellbeing” and “sustainable development” are central to the policy objectives of the NPF, established by the Community Empowerment (Scotland) Act 2015.<sup>44</sup> The NPF “sets out a vision for collective wellbeing”,<sup>45</sup> with the overarching aim to present an overall picture of national wellbeing.<sup>46</sup> It also sets out the aim of embedding Scotland’s progress towards meeting the UN Sustainable Development Goals (mentioned earlier in this Memorandum at paragraphs 25 and 26) in a localised context.<sup>47</sup>

41. The NPF underwent its second statutory review in 2024-25, with the Scottish Parliament consulted on potential changes to the National Outcomes, and the National Indicators by which progress towards meeting the National Outcomes are measured. While calls have previously been

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<sup>41</sup> [Wellbeing and Sustainable Development \(Scotland\) Bill - Scottish Government consultations - Citizen Space](#)

<sup>42</sup> [Wellbeing and Sustainable Development Bill: consultation analysis - gov.scot](#)

<sup>43</sup> [Meeting of the Parliament: FPA/08/10/2024 | Scottish Parliament Website](#)

<sup>44</sup> [Community Empowerment \(Scotland\) Act 2015](#)

<sup>45</sup> [National Performance Framework | National Performance Framework](#)

<sup>46</sup> [Wellbeing Report - Chapter 1 | National Performance Framework](#)

<sup>47</sup> [United Nations Sustainable Development Goals | National Performance Framework](#)

made for the NPF to be renamed Scotland’s Wellbeing Framework,<sup>48</sup> the Scottish Government has, in progressing the statutory review, proposed retaining the NPF’s existing name while consulting on amending the purpose of the NPF to the following: “To improve the wellbeing of people living in Scotland now and in the future”.<sup>49</sup>

42. The Finance and Public Administration Committee’s report on the Review of the National Outcomes (2024) highlighted evidence given by stakeholders, including Carnegie UK and the Scottish Human Rights Commission, in which they suggested that a Wellbeing and Sustainable Development Bill could improve the NPF’s effectiveness. Calls were also made for action to be taken to ensure that the National Outcomes serve to support a more joined-up approach to decision-making, and the role that a Wellbeing and Sustainable Development Bill could play in this regard.<sup>50</sup>

43. It is not the policy intention of this Bill as introduced to replace or directly amend the NPF, including the National Outcomes, as it is recognised that there is already a statutory requirement to review the National Outcomes every five years.<sup>51</sup> Rather, in implementing the provisions of the Bill, it would be for the Scottish Ministers to consider the interaction between this Bill and the NPF, including how the Future Generations Commissioner and the new public duty can serve to complement and strengthen these existing obligations.

44. It is the Member’s view that the Bill could improve the efficacy of the NPF by embedding consideration of both wellbeing and sustainable development into the functions and decision-making of public bodies. This, she believes, would have the effect of improving progress towards achieving the National Outcomes and meeting existing wellbeing goals through greater awareness and application of sustainable development and wellbeing from the outset of public policymaking.

## **The commissioner landscape**

### **Future Generations Commissioner for Wales**

45. Derek Walker, the current FGCW officeholder, summarises his role in the following terms:

“Imagine a person born 50 or 100 years into the future. How is their life going to be made worse or better by what you do today? In Wales, that’s a question everyone who works for councils, Welsh Government, health boards and other public services is obligated to consider as part of their decision-making process [...] I’m charged with making sure our public bodies are doing the best they can to make joined-up, long-term decisions, so that we live better lives and leave a liveable planet behind. I’m essentially the guardian of a law in Wales that protects our environment and our children and grandchildren.”<sup>52</sup>

46. The office of the FGCW sets and works towards five missions, with the aim of protecting the interests of those not yet born while ensuring that “Well-being and long-term thinking are at

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<sup>48</sup> [National Performance Framework Next Steps - Carnegie UK](#)

<sup>49</sup> [Consultation with Parliament in connection with the Review of National Outcomes | National Performance Framework](#)

<sup>50</sup> [Report on the National Performance Framework: Review of National Outcomes](#)

<sup>51</sup> [Community Empowerment \(Scotland\) Act 2015](#), s. 2

<sup>52</sup> [Future Generations Commissioner | Wales.com](#)

the heart of decision-making”.<sup>53</sup> The five missions of the FGCW, as of 2024, are: (1) implementation and impact; (2) climate and nature; (3) health and wellbeing; (4) culture and Welsh language; and (5) a wellbeing economy.<sup>54</sup>

47. The FGCW’s general duty, as set out in the Well-being of Future Generations (Wales) Act 2015, is:

“(a) to promote the sustainable development principle, in particular to—

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

(b) for that purpose to monitor and assess the extent to which well-being objectives set by public bodies are being met.”<sup>55</sup>

48. The current FGWC’s achievements during his term as Commissioner include: influencing the creation of a 10-year national healthcare strategy with a focus on preventive measures including social prescribing; influencing the redevelopment of GCSEs in Wales and the establishment of a new curriculum that emphasises the importance of mental health awareness and eco-literacy; and championing the shift towards a wellbeing economy.<sup>56</sup>

49. The Member believes that Scotland needs an equivalent commissioner, with a similar (albeit localised) purpose and function to ensure that the aims of this Bill are properly realised. The Commissioner would champion the issues underpinning the Bill, ensure its successful implementation, and build policy coherence for sustainable development throughout Scotland’s public sector.

### **Existing independent officeholders in Scotland**

50. The Member, in developing her proposal for a commissioner, has also taken inspiration from the establishment and achievements of the office of the Children and Young People’s Commissioner Scotland (CYPCS), which is currently held by Nicola Killean. The office of the CYPCS was established by the Commissioner for Children and Young People (Scotland) Act 2003,<sup>57</sup> and modified by the Children and Young People (Scotland) Act 2014.<sup>58</sup>

51. The main functions of the CYPCS are to: promote and protect the rights of children and young people in Scotland; promote awareness and understanding of their rights; review law, policy and practice in relation to their rights; promote best practice to those working with and for children and young people; research issues around the rights of children and young people; carry out investigations into issues affecting their rights; and report to Parliament. The Commissioner is

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<sup>53</sup> [Cymru Can: our Vision and Purpose – The Future Generations Commissioner for Wales](#)

<sup>54</sup> [Cymru Can: our Vision and Purpose – The Future Generations Commissioner for Wales](#)

<sup>55</sup> [Well-being of Future Generations \(Wales\) Act 2015](#)

<sup>56</sup> [Future Generations Commissioner | Wales.com](#)

<sup>57</sup> [Commissioner for Children and Young People \(Scotland\) Act 2003](#)

<sup>58</sup> [Children and Young People \(Scotland\) Act 2014](#)

appointed by His Majesty on the nomination of the Scottish Parliament, but operates independently of both the Parliament and the Scottish Government.<sup>59</sup>

52. The Member recognises the comments made by existing officeholders, including the CYPCS, in response to the Finance and Public Administration Committee's inquiry into Scotland's Commissioner Landscape, on the risk of duplication of function should further officeholder posts be created, with concerns expressed that this could impact the work of existing officeholders.<sup>60</sup>

53. The Member considers that her proposed Future Generations Commissioner for Scotland has a distinct purpose. For example, while the establishment of a Future Generations Commissioner in this Bill takes inspiration from the successes of the CYPCS, it would represent a distinct form of office in that its remit would not be to seek to advocate for and uphold the specific rights of a protected group, such as children and young people. Rather, it would seek to promote the interests of future generations by ensuring that sustainable development and wellbeing are primary considerations in all aspects of public sector decision-making and policymaking. This, she believes, would improve scrutiny and accountability, and support – rather than duplicate – the role of existing officeholders, as well as supporting the role of MSPs in carrying out their key scrutiny role of the Scottish Government and other public bodies. The Member's position on this matter is set out in more detail below, at paragraph 58.

### **Establishing new officeholders**

54. At present, there are seven independent officeholders supported by the Scottish Parliamentary Corporate Body (SPCB). These are: the Commissioner for Ethical Standards in Public Life in Scotland, the Scottish Biometrics Commissioner, the Children and Young People's Commissioner Scotland, the Scottish Human Rights Commission, the Scottish Information Commissioner, the Scottish Public Services Ombudsman, and the Standards Commission for Scotland.<sup>61</sup> In addition, legislation creating the office of a Patient Safety Commissioner for Scotland was passed by the Scottish Parliament in 2023,<sup>62</sup> and the Victims, Witnesses, and Justice Reform (Scotland) Bill, which was introduced to the Parliament in April 2023 and at the time of publication is at stage 2 of the legislative process, contains provisions to create a Victims and Witnesses Commissioner for Scotland.<sup>63</sup> Additionally, there are two other Member's Bills that seek to establish commissioner offices: the Disability Commissioner (Scotland) Bill – introduced by Jeremy Balfour MSP in February 2024 – is at stage 1 of the legislative process at the time of publication;<sup>64</sup> and Colin Smyth MSP has a right to introduce his proposed Commissioner for Older People (Scotland) Bill.<sup>65</sup>

55. The Session 2 Finance Committee conducted an Inquiry into Accountability and Governance in relation to the creation of Scottish Parliamentary Corporate Body (SPCB) officeholders. Its final report established the six "design principles", which the committee

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<sup>59</sup> [Who is the Commissioner? - The Children and Young People's Commissioner Scotland](#)

<sup>60</sup> [Meeting of the Parliament: FPA/30/04/2024 | Scottish Parliament Website](#)

<sup>61</sup> [Officeholders | Scottish Parliament Website](#)

<sup>62</sup> [Patient Safety Commissioner for Scotland Act 2023](#)

<sup>63</sup> [Victims, Witnesses, and Justice Reform \(Scotland\) Bill | Scottish Parliament Website](#)

<sup>64</sup> [Disability Commissioner \(Scotland\) Bill | Scottish Parliament Website](#)

<sup>65</sup> [Proposed Older People's Commissioner Scotland Bill | Scottish Parliament Website](#)

considered should feature in consideration of any proposal for the establishment of an additional Commissioner body or officeholder. These were: clarity of remit; distinction between functions; complementarity (to create a coherent system); simplicity and accessibility; shared services; and accountability.<sup>66</sup>

56. At every stage of policy development during the Member's Bill process, the Member is satisfied that she has fully considered each of these principles in turn to ameliorate any concerns regarding the necessity of a Future Generations Commissioner being created. Her consideration of each of the six "design principles" is set out in detail in the consultation document for this Bill.<sup>67</sup> To summarise:

- The Member is of the view that the new officeholder created by the Bill would have a **clear remit**, which is distinct from that of other officeholders. The Future Generations Commissioner's remit (i.e. its general function) is to promote the wellbeing of future generations by promoting sustainable development practices by public bodies.
- The Bill provides for a clear **distinction between the Commissioner's functions**, which include publishing guidance, promoting awareness and understanding of matters within their remit, reviewing law, policy and practice, promoting best practice and undertaking research.
- A key policy objective of establishing a new Commissioner in this Bill is to improve policy coherence for sustainable development. The Member believes that the Commissioner's work will necessarily serve to build **complementarity** by enhancing policy coherence throughout the public sector. It is explained later in this Policy Memorandum (at paragraph 96) how the Member envisages the Future Generations Commissioner's work supporting and complementing the work of other Commissioners in their consideration of wellbeing in respect of specific groups.
- Building on the success of Scotland's other independent officeholders, but noting that the Future Generations Commissioner's remit will be notably broader than others, the Member envisages that the Commissioner will promote understanding of its function and work in a way that is as **simple and accessible** to the public and the bodies subject to their oversight as possible.
- The Member is supportive of the promotion of **shared services** between SPCB-supported bodies and officeholders, and she envisages that the Future Generations Commissioner would fit into existing arrangements for service sharing among independent officeholders. The Member's preference would be to identify notable efficiencies in setting up the new Commissioner's office wherever possible, such as sharing premises and administrative staff.
- Reflecting the lines of **accountability** established for other Commissioner bodies and officeholders, the Future Generations Commissioner will have operational independence, but will be financially supported by the SPCB and accountable to the Scottish Parliament.

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<sup>66</sup> [\[ARCHIVED CONTENT\] The Scottish Parliament - Finance Committee Report](#)

<sup>67</sup> [final\\_consultation\\_sarahboyack\\_proposedwellbeingandsustainabledevelopmentbill.pdf](#), pp. 23-26

**Review of Scotland's Commissioner Landscape and the SPCB Supported Bodies Landscape Review Committee**

57. In October 2024, the Finance and Public Administration Committee published its final report, *Scotland's Commissioner Landscape: A Strategic Review*, following an extensive inquiry prompted by the Committee's "concerns at the potential for, and implications of, this landscape growing exponentially over this parliamentary session and beyond".<sup>68</sup> Among its aims, the inquiry sought to establish "the extent to which a more coherent and strategic approach to the creation and development of Commissioners in Scotland is needed and how this might be achieved".<sup>69</sup>

58. In its report, the Committee highlighted its particular concern around what it considers to be an increase in proposals for "advocacy-type" SPCB-supported bodies in response to "perceived failures in public service delivery". The Future Generations Commissioner to be established by this Bill was considered by the Committee to be included in this "trend". The Member's position, which she expressed to the Committee informally during its inquiry,<sup>70</sup> is that the office of the Future Generations Commissioner should not be considered a part of any perceived trend, nor should it be considered an "advocacy-type" commissioner. Unlike some existing and proposed commissioners, the Future Generations Commissioner does not have a role in advocating for the interests of a particular group in society with a protected characteristic. Instead, their role will be much more broadly about promoting long-term, joined-up thinking across the public sector for the benefit of all people living in Scotland in the future, regardless of belonging to any minority group or protected characteristic. She believes that the Future Generations Commissioner for Wales is a successful example to follow, and that establishing an equivalent commissioner in Scotland is worth investing in in the short term to ease financial pressures and save money in the future.

59. The Committee report's recommendations included a "moratorium on creating any new SPCB supported bodies, or expanding the remit of existing bodies, until a 'root and branch' review of the structure is carried out".<sup>71</sup> It further recommended that the review be carried out by a dedicated committee of the Parliament that includes all political parties, and that this review should be completed by June 2025.

60. On 31 October 2024, following a debate, the Parliament agreed the following motion as amended:

"That the Parliament welcomes the Finance and Public Administration Committee's 7th Report, 2024 (Session 6), *Scotland's Commissioner Landscape: A Strategic Approach* (SP Paper 642); agrees with the recommendation that a dedicated committee should be established to carry out a "root and branch" review, with the purpose of creating a clear strategic framework to underpin and provide more coherence and structure to the Scottish Parliamentary Corporate Body (SPCB) supported body landscape, which should complete its work by June 2025, and further agrees that, while this review is undertaken, there should be a moratorium on creating any new SPCB supported bodies, or expanding the remit of existing bodies, while recognising that, for proposals within bills that have already been

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<sup>68</sup> [Report on Scotland's Commissioner Landscape: A Strategic Approach | Scottish Parliament](#)

<sup>69</sup> [Scotland's Commissioner Landscape: A Strategic Approach | Scottish Parliament Website](#)

<sup>70</sup> [Scotland's Commissioner Landscape - Note of Discussion with MSPs and Former MSPs](#)

<sup>71</sup> [Report on Scotland's Commissioner Landscape: A Strategic Approach](#)

introduced, these are now for the Parliament to take a decision on, respecting the lead committees' roles in scrutinising legislation within their remits.”<sup>72</sup>

61. The Scottish Government indicated in its contributions that the debate and subsequent resolution of the Parliament – particularly in relation to the moratorium on creating any new SPCB supported bodies – would not impact on a Member’s right to introduce a Bill and take it through the parliamentary process for the Parliament and its committees to take a view on. In her contribution, Ms Boyack said:

“I very much welcome the opportunity for a proper discussion on the commissioner landscape. The Scottish Human Rights Commission has highlighted the need for a coherent infrastructure, but we should be careful not to downplay or reduce the effective work of existing commissioners. More integrated working and support are important, but let us not forget the importance of those commissioners’ remits. The Scottish Parliament regularly struggles with long-term thinking. Commissioners potentially enable a bigger-picture approach to be taken to legislation, improve scrutiny and increase action on the important issues that our constituents have elected us to act on.”<sup>73</sup>

62. The SPCB Supported Bodies Landscape Review Committee was established in December 2024, and is expected to sit until 30 September 2025. Its remit is as follows:

“To consider, review and report on the Scottish Parliamentary Corporate Body (SPCB) supported bodies landscape in accordance with the Parliament’s resolution of 31 October 2024 and develop a clear strategic framework to underpin and provide coherence and structure to the SPCB supported bodies landscape by the end of June 2025, including

- (a) creating effective accountability and scrutiny mechanisms
- (b) formalising strengthened criteria for creating new supported bodies; and
- (c) identifying and addressing any barriers to sharing services and offices.”<sup>74</sup>

63. It is expected that scrutiny of this Bill at Stage 1 will be ongoing when the Committee publishes its findings.

## **PROVISIONS OF THE BILL**

### **Establishment of new duty on public bodies**

64. Section 1 of the Bill imposes a duty on public bodies, which requires them to “have due regard for the need to promote wellbeing and sustainable development” in the exercise of their functions.

65. In developing her policy, the Member has taken inspiration from the Public Sector Equality Duty, set out in section 149 of the Equality Act 2010, which provides that:

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<sup>72</sup> [S6M-15086 | Scottish Parliament Website](#)

<sup>73</sup> [Meeting of the Parliament: 31/10/2024 | Scottish Parliament Website](#)

<sup>74</sup> [SPCB Supported Bodies Landscape Review Committee | Scottish Parliament Website](#)



- “(1) A public authority must, in the exercise of its functions, have due regard to the need to—
- (a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”<sup>75</sup>

66. This serves as a useful comparator, as it is similarly framed in terms of requiring public bodies to “have due regard to” the need to achieve a certain goal. Case law relating to the implementation of the public sector equality duty has provided guidance on what having “due regard” entails. The Equality and Human Rights Commission has summarised the responsibilities as follows:

“In particular, decision-makers need to:

- be aware of their responsibilities under the duty
- make sure they have adequate evidence (including from consultation, if appropriate) to enable them to understand the potential effects of their decisions [...]
- consciously and actively consider the relevant matters, in such a way that it influences decision-making
- do this before and at the time a decision is taken, not after the event
- be aware that the duty can’t be delegated to third parties who are carrying out functions on their behalf”.<sup>76</sup>

67. The Bill also provides that, in the exercise of their duty to have due regard for the need to promote wellbeing and sustainable development, public bodies must have regard to any guidance published by the Future Generations Commissioner for Scotland, which is discussed below at paragraphs 81 and 82.

68. The duties established by the Bill apply to all public bodies in Scotland. “Public body” is defined in section 17 of the Bill and includes Scottish public authorities and cross-border public authorities (but only in relation to functions exercisable in or as regards Scotland which do not relate to reserved matters). The duty applies to public bodies in the exercise of their functions, which primarily include decision-making, policymaking (both internal and external), and policy implementation (including the provision of services).

69. The relevant matters to be considered in fulfilling this duty will vary among public bodies, depending on their focus. However, these should be informed by the Bill’s definitions of “wellbeing” and “sustainable development”. By way of illustration, if a local authority were

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<sup>75</sup> [Equality Act 2010](#)

<sup>76</sup> [General Duty FAQs \(for GB\) | EHRC](#)

planning to build a new social housing development, it would be required to have due regard to the need to promote wellbeing and sustainable development at all stages of the process, including planning and development. This would likely involve considering factors such as:

- Choosing a location with public transport access, and which enables and encourages active travel;
- Access for residents to green spaces within walking distance, as well as access to spaces for exercise and play;
- Prioritising decarbonised energy and heating to ensure cheaper, warmer homes;
- Using sustainably sourced materials in the construction of the homes;
- If families are expected to live in the development, ensuring that the homes will have access to nearby schools with sufficient capacity in the long term; and
- Whether it is possible to make available training opportunities to local people throughout the construction of the homes to develop and improve employability within the area.

70. The Member acknowledges that many such factors are already considered by local authorities when building social housing. However, by establishing a public duty, it is envisaged that public bodies record the consideration they have given to promoting wellbeing and sustainable development in a way that demonstrates compliance with their obligations under this Bill.

71. It will be for individual public bodies to determine how they measure, assess and demonstrate compliance with the public duty established by this Bill. The Member envisages that they may choose to undertake wellbeing and sustainable development impact assessments when making decisions and developing policies to evidence their compliance. Such evidence would then be recorded, auditable and subject to scrutiny by the Future Generations Commissioner for Scotland. The Commissioner may issue guidance to public bodies about recording and demonstrating compliance with the duty under the Bill, which public bodies would need to consider when establishing their internal processes.

### **Defining “sustainable development”**

72. The Bill proposes that “sustainable development” be defined as “development that improves wellbeing in the present without compromising the wellbeing of future generations”. This is based on the UN Brundtland Commission’s definition of sustainable development, set out above at paragraph 18.

73. While the term “sustainable development” appears frequently across legislation, there is no single agreed definition for public policy use. For the avoidance of doubt, this Bill does not seek to amend all previous legislation in which the term occurs to align it with the Bill’s definition. Instead, it provides a definition for the purposes of the Bill, giving meaning to “sustainable development” in the context of the new public duty and the work of the Commissioner.

74. In light of the Member’s position that sustainable development is inextricably linked to wellbeing – as the means to achieve it – the Bill proposes a modified version of the Brundtland definition to make this connection clear.

### **Defining “wellbeing”**

75. This Bill does not seek to establish a singular statutory definition of wellbeing by amending all previous legislation in which the term occurs to align with the Bill’s definition. Instead, just as with the definition of “sustainable development”, it defines the term for the purposes of the new public duty and the work of the Commissioner.

76. The proposed definition in the Bill is as follows:

“‘Wellbeing’ means the ability of individuals, families and other groups within society to enjoy—

- (a) personal dignity, including respect for their choices and beliefs,
- (b) freedom from fear, oppression, abuse and neglect,
- (c) good physical, mental and emotional health,
- (d) participation in meaningful activity including work, education, training and recreation,
- (e) an adequate standard of living including suitable and affordable accommodation, food, clothes and energy,
- (f) access to the natural environment for health, leisure and relaxation.”

77. In addition, the Bill provides that the Scottish Ministers may add, remove or vary the factors included within this definition through secondary legislation (regulations).

78. The Member hopes that providing a statutory definition of “wellbeing” will aid clarity and inform policymakers going forward. The Member envisages that public bodies will use the factors included within the Bill’s definition of “wellbeing” as outcomes against which to assess the impact of their policy decisions, in line with their duty under this Bill.

### **The Future Generations Commissioner for Scotland**

79. The Bill provides for the establishment of the office of the Future Generations Commissioner for Scotland. The Commissioner will be an independent officeholder, funded by and accountable to the Scottish Parliamentary Corporate Body (SPCB) and appointed by His Majesty the King on the nomination of the Scottish Parliament.

### **Function**

80. The general function of the Commissioner will be to promote the wellbeing of future generations by promoting sustainable development by public bodies in all aspects of their decisions, policies and actions. Overall, the Member is of the view that the Commissioner should enjoy significant freedom in determining how to exercise this general function. However, as a

baseline, the Bill specifies a range of specific functions that the Commissioner will be expected to take in their role. These are as follows:

- a) Produce guidance for public bodies on the exercise of their duty to have due regard for the need to promote wellbeing and sustainable development;
- b) Review such guidance from time to time and produce updated guidance as appropriate;
- c) Promote awareness and understanding amongst public bodies of wellbeing and sustainable development;
- d) Keep under review the law, policy and practice relating to development with a view to assessing the adequacy and effectiveness of it in giving effect to wellbeing and sustainable development;
- e) Promote best practice by public bodies; and
- f) Promote, commission, undertake and publish research on matters relating to wellbeing and sustainable development.

### Guidance

81. As part of the Commissioner's general function outlined above, the Commissioner must prepare and publish guidance for public bodies about the exercise of their duty to have due regard for the need to promote wellbeing and sustainable development in the exercise of their functions. A public body will be required to have regard to this guidance when exercising its duty under the Bill. The Commissioner must review this guidance from time to time and publish updated guidance whenever appropriate.

82. While it will be a matter for the Commissioner to determine what ought to be included in their guidance for public bodies, the Member envisages that the guidance would contribute to the fulfilment of the Commissioner's function, by including information on matters such as:

- Developments in understandings and approaches to wellbeing and sustainable development, thereby promoting awareness and understanding among public bodies;
- The Commissioner's intended approach to undertaking investigations, and what will be required of public bodies in their cooperation with such investigations;
- How public bodies will be expected to demonstrate compliance with their duty under the Bill;
- Detail of best practice in the promotion of wellbeing and sustainable development by public bodies, including examples within Scotland and from other countries; and
- How organisations can work collaboratively across the public sector to build policy coherence for sustainable development.

### Promoting awareness and understanding

83. It will be for the Commissioner to determine the means and methods by which they promote awareness and understanding of the principles of wellbeing and sustainable development. The Member considers that the Commissioner will adopt a public profile to aid awareness-raising, which could include running campaigns, public advocacy activities, and providing evidence to relevant parliamentary committee inquiries. It is also envisaged that the Commissioner would have

ongoing direct engagement with the Scottish Government, including through responding to consultations and contributing to expert and working groups.

*Reviewing law, policy and practice*

84. Regarding the Commissioner’s duty to keep under review the law, policy and practice relating to sustainable development and wellbeing, it is envisaged that the Commissioner will engage with and comment on relevant work undertaken by the Scottish Parliament, including: influencing policy development; making submissions to, appearing before and giving evidence to parliamentary committees; responding to consultation exercises; and publishing reports on legislative proposals. In addition, the Member envisages that the Commissioner would engage with the Scottish Ministers on matters of relevance to their remit, for example by writing to them or holding meetings. The precise nature of any such engagement and the overall exercise of this function will be for the Commissioner to determine.

85. The Bill does not give the Commissioner the power to enact or enforce changes to the law, in recognition of the distinct role of MSPs as lawmakers and the Parliament’s role as the key body tasked with the scrutiny of legislation and holding the Scottish Government to account. The Member considers that the Commissioner would play a complementary role in aiding scrutiny by, and accountability to, the Parliament by championing change and improvements in public sector decision-making with a view to making and agreeing sustainable changes for the benefit of future generations’ wellbeing, in addition to the wellbeing of generations alive today.

*Promoting best practice*

86. The Commissioner’s functions include promoting best practice by public bodies. The Bill defines “best practice” as “such practice in relation to wellbeing and sustainable development as appears to the Commissioner to be desirable”. As well as determining what best practice entails, it will be for the Commissioner to determine how to promote best practice. However, the Member envisages that this could be achieved through various means, including: engagement with groups likely to be impacted by unsustainable policymaking, or those whose wellbeing is detrimentally impacted by policy decisions, and other key stakeholders; as part of the Commissioner’s issuing of guidance, as discussed above; and highlighting success stories, such as those related to the successful implementation of the public duty.

*Research*

87. The Commissioner also has a specific function whereby they should promote, commission, undertake and publish research on matters relating to wellbeing and sustainable development. It will be for the Commissioner to determine how best to identify relevant areas for research, however the Member is of the belief that this process should be participatory, engaging relevant stakeholder organisations and representative groups as required. It is expected that the findings of the research would be used to identify areas of concern, for example gaps in policy coherence or unsustainable policymaking, which the Commissioner may use their public profile to raise awareness of and call for change.

## **Investigations**

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

### **General and individual investigations**

89. The Commissioner may carry out general and individual investigations. All investigations would operate at organisational level, i.e. not pertaining to specific persons or employees. The distinction between general and individual investigations is made to demonstrate that the Commissioner's powers of investigation may include both very wide-ranging investigations (general), and those into much narrower matters (individual). Beyond this, there is little practical distinction between these two levels, as detailed below.

90. A general investigation is any investigation into whether, by what means and to what extent public bodies have regard to wellbeing and sustainable development in making decisions, developing policy or taking actions. The Commissioner will only be permitted to carry out a general investigation where they consider the available evidence on, and any information received about, the matter and are satisfied on reasonable grounds that the matter to be investigated raises an issue of particular significance to the wellbeing of future generations.

91. An example of a general investigation undertaken by another commissioner in Scotland was the CYPCS investigation into the use of restraint and seclusion in Scottish schools. This was CYPCS's first ever use of its investigatory powers, which led to its impactful and extensively discussed report, *No Safe Place: Restraint and Seclusion in Scotland's Schools*.<sup>77</sup>

92. Elsewhere in the UK, the FGCW undertook a review into how the Welsh Government implements the Well-being of Future Generations (Wales) Act 2015, using their powers of review under section 20 of the same Act.<sup>78</sup> This power of review is the Welsh Act's equivalent to the investigatory powers set out in this Bill. The FGCW began this review in January 2022 and published the final report in December 2022.<sup>79</sup> The Commissioner's team "undertook extensive research and evidence gathering, with a literature review and an analysis of Welsh Government materials, supplemented by over 40 evidence sessions with Welsh Government Ministers, civil servants, representatives of public bodies and others".<sup>80</sup> The overarching findings of this review were as follows:

- The WFG Act and the extent to which it has been embedded in the DNA of Welsh public policy development and delivery continues to be world-leading;
- The reach of the Act, enthusiasm and commitment for what it aims to achieve has extended beyond those organisations who are covered by the legislation;

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<sup>77</sup> [No-Safe-Place.pdf](#)

<sup>78</sup> [Well-being of Future Generations \(Wales\) Act 2015](#)

<sup>79</sup> [C28299-FG-Section-20-Review-ENG.pdf](#)

<sup>80</sup> [Section 20 Review – The Future Generations Commissioner for Wales](#)

- Its success to date has resulted more from leadership and commitment than embedded processes; and
- Clear leadership, continual communication and constant review will be needed for the Government to move successfully to the next phase of implementation.

93. An individual investigation does not refer to an investigation into individual members of the public or members of staff at a particular public body. Rather, an individual investigation will be an investigation into whether, by what means and to what extent one or more public bodies have had regard to wellbeing and sustainable development in making a particular decision, adopting a particular policy or taking a particular action.

#### *Limits to the Commissioner's investigatory powers*

94. There are two primary limitations to the Commissioner's investigatory powers under the Bill. Firstly, the Commissioner will be limited to conducting investigations into devolved matters only, and will not have the statutory authority to carry out any investigation that would relate to a reserved matter. Secondly, the Commissioner would not be permitted to carry out an investigation insofar as it would relate to the making of decisions or taking of action in particular legal proceedings before a court or tribunal, or a matter which is the subject of legal proceedings before a court of tribunal.

#### *Interaction with other independent officeholders*

95. This document has already considered the distinct remit of the Commissioner in relation to other independent officeholders. It should be considered that there may be occasions when the Future Generations Commissioner wishes to investigate a matter that another organisation also has the power to investigate. For example, the Future Generations Commissioner may wish to investigate a matter concerning the provision of long-term funding for mental health services for young people, including the projected long-term impact on future generations. As this would involve young people, this could be a matter in which the CYPCS also takes an interest and wishes to investigate.

96. Should such a situation arise, it is envisaged that the Commissioner would be able to progress the investigation if, following engagement with any other body that holds investigatory powers and with whom this function may intersect, the other body has determined that it would be more expedient and effective for the Future Generations Commissioner to undertake the investigation. It is therefore expected that the Future Generations Commissioner's work could serve to complement the work of other Commissioners, without leading to any significant overlap or duplication of efforts. Given the distinct remit of the Future Generations Commissioner, it is not envisaged that a memorandum of understanding would be required to formalise this process.

#### *The investigation process*

97. Prior to conducting an investigation, the Commissioner would be required to draw up the terms of reference for that investigation, before taking such steps as the Commissioner considers appropriate to bring notice of the investigation and its terms of reference to the attention of those who would likely be affected by it.

98. The Member considers it important that any investigations are conducted with a presumption of openness and transparency. To that end, investigations would be carried out in public as far as practicable, unless the Commissioner considered that private evidence would be necessary or more appropriate in certain circumstances. For example, where the matter being investigated deals with particularly sensitive information, the Commissioner may consider it necessary to take evidence on those sensitive matters in private.

99. Section 9 of the Bill authorises the Commissioner to compel witnesses to provide evidence under certain conditions. In essence, the Commissioner may require any person to give evidence on any matter with the terms of reference of an investigation, or require them to hand over any relevant documents that they hold. However, they would not be permitted to compel evidence from any person whom the Scottish Parliament could not require, under section 23 of the Scotland Act, to attend its proceedings for the purpose of giving evidence or to produce documents. This excludes the Commissioner from requiring judges and members of a tribunal to provide evidence.<sup>81</sup> The Member is of the view that such an approach will ensure that the Commissioner is afforded the sufficient authority to gather any requisite information so that a full investigation can be carried out.

#### After an investigation

100. Following the conclusion of an investigation, the Commissioner must prepare a report that sets out their findings in relation to the issue investigated, and their recommendations in light of those findings. The investigation report must then be laid before the Scottish Parliament and published as soon as practicable thereafter.

101. In relation to the investigation report's recommendations, the Commissioner may include a requirement to respond. This would require a public body to provide a statement in writing to the Commissioner, within a time period specified by the Commissioner. The response must set out what the public body has done or proposes to do in response to the recommendation; or, if the public body does not intend to do anything in response to the recommendation, the reasons for its position on that.

102. The Member envisages that an investigation report by the Commissioner would likely bring to light issues that may require further scrutiny, including by the Scottish Parliament or a relevant parliamentary committee. For example, a committee might undertake an inquiry into a report's findings. Further, the Commissioner may continue to engage with the Scottish Government following the outcome of an investigation, for example by meeting with relevant ministers to discuss their recommendations or make calls for the recommendations to be implemented. The Member expects that the Commissioner would promote the outcomes of the report in the media, highlighting its findings and details of the recommendations made.

103. Investigations by other commissioners have had significant impact on policy discussions and have led to action being taken by the Scottish Government to address their findings and concerns. For example, the CYPCS investigation into restraint and seclusion in schools (discussed above at paragraph 91) ultimately led to the creation of non-statutory guidance for education

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<sup>81</sup> [Scotland Act 1998](#), s 23(7).



authorities, grant-aided and independent schools on the use of physical intervention in schools.<sup>82</sup> The Member believes that investigations undertaken by the Future Generations Commissioner would have a similar level of impact and influence on public policy in Scotland.

### **Strategic plan, annual reports and other reports**

104. The Bill places a requirement on the Commissioner to publish an annual report on the exercise of their functions during the reporting year (defined in the Bill as the year beginning on 1 April), to be laid before the Scottish Parliament within 7 months after the end of the reporting year. It should include: a review of any issues identified by the Commissioner as being relevant to the promotion of wellbeing and sustainable development; a review of the Commissioner's activity in the reporting year, including the steps taken to fulfil each of the Commissioner's functions; any recommendations arising out of such activity; and an overview of the work the Commissioner intends to undertake in the year ahead.

105. The Bill also requires the Commissioner to publish a strategic plan every four years, to be laid before Parliament. Prior to publishing a strategic plan, the Commissioner must consult on a draft of the plan with the SPCB, and any persons/bodies that the Commissioner considers would be appropriate. The strategic plan should set out how the Commissioner proposes to perform their functions during the reporting period, including their objectives and priorities, and the estimated costs of doing so.

106. Should they consider it appropriate to do so, the Commissioner may also lay any additional reports before the Parliament. For example, the Commissioner may consider it appropriate to lay before Parliament any reports resulting from the use of their power under the Bill to undertake a general investigation.

### **Protection from actions of defamation**

107. Any statement made to, or by, the Commissioner or a member of the Commissioner's staff (when working in their capacity as Commissioner, or a member of their staff) in investigating or communicating with a person as part of an investigation, would have absolute privilege. This is based on the precedent of existing legislation that established other independent SPCB-supported bodies, including other Commissioners. Any other statement made to, or by, the Commissioner (or their staff) would have qualified privilege.<sup>83</sup>

### **Removal from office**

108. The Bill establishes that the Commissioner may hold office for a period of up to eight years, with the length of tenure to be determined by the SPCB at the time of appointment. If the SPCB determines that the Commissioner has breached the terms and conditions of their appointment, or that the Parliament has lost confidence in the Commissioner's willingness, suitability or ability to perform their role, the Parliament may vote to remove the Commissioner from their office. In

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<sup>82</sup> [Introduction - Physical intervention in schools - a relationships and rights based approach: guidance - gov.scot](#). See also the Restraint and Seclusion in Schools (Scotland) Bill, introduced by Daniel Johnson MSP in March 2025, which seeks to create statutory guidance for education providers on this topic.

<sup>83</sup> Absolute and qualified privilege are defined in the [Defamation and Malicious Publication \(Scotland\) Act 2021](#).

either of the above cases, the removal of the Commissioner from office requires a resolution of the Scottish Parliament to be agreed to by at least two thirds of the total number of MSPs.

## **ALTERNATIVE APPROACHES**

109. With regards alternative approaches to the Member pursuing the Bill, the Member could have chosen not to seek to legislate through the Member's Bill process. Choosing not to legislate would not have precluded the Scottish Government from progressing with its own Bill on the same topic. The Member could therefore have taken the approach of following the progression of the Scottish Government's proposed equivalent Wellbeing and Sustainable Development Bill.

110. However, as mentioned previously in this Memorandum (at paragraph 38), in deciding to progress a Member's Bill despite the inclusion in the Scottish Government's Programme for Government 2021-22 of a proposal for a Wellbeing and Sustainable Development Bill, the Member considered that the issues underpinning the proposed Bill were too pressing to not be progressed, or to be left solely to the Scottish Government to schedule within its legislative programme. Further, she considers that the establishment of a Future Generations Commissioner within such a Bill, whose remit centres on promoting the wellbeing on future generations by promoting sustainable development by public bodies, will help ensure the policy's success. On that basis, and in light of the fact that the Scottish Government has decided not to legislate in this area, she is satisfied that pursuing her vision of the Bill through the Member's Bill process was an appropriate approach to take.

111. An additional alternative approach that could have been taken to achieve the aims of the Bill may have been to seek to directly amend the NPF as the means through which to measure and improve Scotland's national wellbeing. This Memorandum has already touched upon the decision not to legislate to directly amend the NPF (at paragraphs 43 and 44). It is the Member's view that her Bill could have the effect of strengthening the efficacy of the NPF, and that implementing its provisions will present the Scottish Government with a potential opportunity to further engage the remit of the NPF. Additionally, the Member believes that the Future Generations Commissioner created by the Bill will play a key role in building policy coherence for sustainable development across the public sector in relation to improving the wellbeing of future generations. She envisages that this could include a role in improving understanding within the public sector of the NPF and progress towards meeting National Outcomes. Further, given the statutory review process for the NPF, there is already an existing mechanism for review and scrutiny of the NPF by the Scottish Parliament.

## **CONSULTATION**

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

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

113. The draft proposal was accompanied by a consultation exercise. The consultation period ran from 14 December 2022 to 24 March 2023, and 96 responses were received.<sup>84</sup> The largest shares of responses were from third sector organisations (30) and private individuals (36). Responses were also received from representative organisations (3), public sector organisations (5), individual politicians (3), professionals with relevant experience (9), and academics with relevant expertise (9).

114. Of the 96 responses received, 92% supported the proposed Bill, with 78% expressing full support and 14% expressing partial support. Of the 39 responses from organisations (41% of the total number of responses), 38 of those were supportive, while none were opposed to the aims of the Bill as proposed. Among the organisations that fully supported the proposed Bill at consultation were SIDA, Carnegie UK, Oxfam Scotland, RSPB Scotland and Glasgow City Council. Only 2 respondents (less than 2% of the total number of respondents) were opposed to the aims of the proposed Bill.

115. Similarly high levels of support were also expressed for other specific aims of the Bill, including for the legislation to include definitions of “sustainable development” (91% supportive) and “wellbeing” (89% supportive), and the establishment of new public duties (94% supportive). In relation to the provision to establish a Commissioner for wellbeing and sustainable development, 79% of respondents were supportive, while 3% were opposed and 17% recorded a neutral response. Concerns expressed by those who recorded a neutral or opposed response to the Commissioner element of the proposal included lack of clarity about the Commissioner’s proposed remit at consultation stage, the potential for over-bureaucratisation, and the perception of a crowded commissioner landscape.

## **EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.**

### **Equal opportunities**

116. An Equality Impact Assessment (EQIA) has been carried out for this Bill, with its findings and conclusions set out below. Following the introduction of the Bill, the Member in Charge will send a copy of the EQIA to the Committee that leads on its scrutiny in order to aid its consideration at Stage 1 of the legislative process.

117. The purpose of an EQIA is to examine the extent to which a policy or Bill may impact on any specific group of people and/or promote equality of opportunity, or create any new inequality. The Member believes that her Bill will have a positive equalities impact.

118. The Member is of the view that sustainable policymaking is essential to ensuring that both today’s citizens and future generations have the resources they need to live well. It is her belief that an outcome of the Bill would be an improved understanding of how decision-making with a focus on sustainable, long-term benefits can impact on and improve wellbeing, as well as having a positive impact on intersecting societal issues, such as inequality, climate change and poverty. On that basis, she considers that the Bill would benefit the population of Scotland as a whole, in the present and in the future, regardless of any protected characteristic.

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<sup>84</sup> [Proposed Wellbeing and Sustainable Development \(Scotland\) Bill: Summary of Responses](#)

119. The 2024 *Life in the UK* research study by Carnegie UK and Ipsos drew attention to a picture of “stagnant wellbeing” in Scotland, with disabled people, younger people, people on lower household incomes and people living in deprived areas experiencing lower levels of wellbeing than other groups. The report sets out the following observation:

“Wellbeing cannot flourish when there is inequality between people and communities. The differences in social wellbeing scores based on protected characteristics such as age and disability demonstrate that there is still a long way to go to make equality a reality in Scotland [...] The Scottish Government, its agencies, local government, and their third sector partners should focus on addressing the wellbeing gaps between demographics as a matter of urgency. This is particularly important in meeting the requirements of the Equality Act 2010 which legally protects people from discrimination in wider society.”<sup>85</sup>

120. This conclusion aligns with the overall aims of the Bill, and the perspective that improving collective national wellbeing through more sustainable policymaking will positively impact the most vulnerable in society, including those with intersecting protected characteristics who may be more likely to experience social inequality.

## **Human rights**

121. Under the Scotland Act 1998, legislation must be compatible with the rights set out in the European Convention on Human Rights (ECHR) in order to be within the Scottish Parliament’s legislative competence.<sup>86</sup> It is the Member’s view that all of the Bill’s provisions are compatible with the Convention rights.

122. Given the Bill’s policy objective of improving wellbeing for future generations, as well as that of generations in Scotland alive today, the Member believes that the Bill will contribute to the fulfilment of Scotland’s obligation to secure the rights and freedoms set out in the ECHR. For example, with particular reference to the Bill’s definition of “wellbeing” and the factors included therein (set out above at paragraph 76), it is the Member’s view that the Bill would have a positive impact on the enjoyment by current and future generations of the following Convention rights and freedoms:

- Article 2: Right to life. By promoting sustainable development, the Bill supports a healthy environment and resources for future generations, which will protect life and ensure survival.
- Article 8: Right to respect for private and family life. The Bill defines “wellbeing” as the ability of individuals, families and other groups within society to enjoy a variety of things which contribute to wellbeing.
- Article 9: Freedom of thought, conscience and religion. The inclusion of “personal dignity, including respect for their choices and beliefs” as a wellbeing factor supports the right to freedom of thought, conscience and religion.

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<sup>85</sup> [Life in the UK 2024 Scotland - Carnegie UK](#)

<sup>86</sup> [Scotland Act 1998](#), section 29(2)(d)

- Article 10: Freedom of expression. The inclusion of “personal dignity, including respect for their choices and beliefs” as a wellbeing factor supports the right to freedom of expression.
- Article 14: Prohibition of discrimination. The inclusion of “personal dignity, including respect for their choices and beliefs” and “freedom from fear, oppression, abuse and neglect” as wellbeing factors applying to individuals, families and other groups in society supports the prohibition of discrimination.
- Article 2 of Protocol 1: Right to education. The inclusion of “participation in meaningful activity including work, education, training and recreation” as a wellbeing factor supports the right to education.

### **Statement of compatibility under section 23(1) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024**

123. Sarah Boyack MSP has made a statement that, in her view, the provisions of the Bill have a positive impact on compatibility with the UNCRC requirements.

124. The Bill imposes a duty on public bodies to “have due regard for the need to promote wellbeing and sustainable development” in the exercise of their functions. This duty encompasses the wellbeing of individuals, families, and groups within society, including children, as defined by Article 1 of the UNCRC.

125. Article 3 of the UNCRC states that the best interests of the child must be a primary consideration in all actions concerning children. The Bill's focus on promoting wellbeing aligns with this principle by ensuring that public bodies consider the impact of their decisions on the wellbeing of all individuals, including children.

126. Article 6 provides for the child's right to life, survival, and development. By promoting sustainable development, the Bill supports a healthy environment and resources for future generations, thereby contributing to the survival and development of children.

127. Article 12 ensures the child's right to express their views freely in all matters affecting them, with due weight given to their age and maturity. By promoting sustainable development and improved wellbeing for current and future generations, the Bill will have a positive impact on upholding children's right to be listened to and taken seriously.

128. Article 24 guarantees the child's right to the highest attainable standard of health. The Bill's promotion of sustainable development practices contributes to better health outcomes by ensuring a healthier environment and access to necessary resources for everyone, including children.

129. Article 27 states that every child has the right to a standard of living adequate for their physical, mental, spiritual, moral, and social development. The Bill's focus on wellbeing and sustainable development supports adequate living standards for all individuals, including children, by addressing housing, food, and energy needs.

130. Article 28 provides for the child's right to education. The Bill supports this right through the inclusion of "participation in meaningful activity including work, education, training, and recreation" as a wellbeing factor.

131. Article 31 ensures the child's right to rest and leisure, to engage in play and recreational activities appropriate to their age. The inclusion of "access to the natural environment for health, leisure, and relaxation" as a wellbeing factor supports the right of all individuals, including children, to rest and recreational activities.

### **Island communities**

132. The provisions of the Bill apply equally to all geographical areas across Scotland, including island and other remote, rural communities. This includes the public duty created by this Bill, which will apply to public bodies based across Scotland. Similarly, the Commissioner, in their work, would be expected to consider the specific wellbeing and sustainable development needs of people living in island communities.

133. Some issues impacting island communities may be of particular relevance to the provisions of this Bill. For example, depopulation affecting island communities is a key issue that will have an impact on future generations of island residents, as well as the wellbeing of those living in island communities today. While the priorities of the Commissioner will be for the Commissioner to decide, this example demonstrates how both their work and the implementation of the public sector duty could benefit island communities by improving the sustainability of policymaking (for example, measures to tackle rural and island depopulation), including the sustainability of continuing island life.

### **Local government**

134. The Bill and its provisions will have a notable impact on local government, in that the public duty established by the Bill will apply to local authorities. This would have the effect that each Scottish local authority would be required to have due regard to the need to promote wellbeing and sustainable development in the exercise of its functions. From the point at which an Act resulting from this Bill came into force, each local authority would have to continuously assess the extent to which it is fulfilling this duty, and in the exercise of its duty it must also have regard to any guidance published by the Future Generations Commissioner under the provisions of the legislation.

135. Local authorities may also be required to be involved in any investigations undertaken by the Commissioner under the legislation, whether that be a general or individual investigation.<sup>87</sup>

136. As with all other public bodies, it would be a matter for individual local authorities to consider how best to implement the new duty established by the Bill, and how to measure and monitor compliance with the duty. This is discussed earlier in this Memorandum at paragraphs 69 to 71.

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<sup>87</sup> For distinction between general and individual investigations, see paragraphs 89 to 93.

## **Sustainable development**

137. Implications for sustainable development are considered when developing the policy underpinning all Members' Bill proposals, with an initial sustainable development impact assessment carried out prior to the publication of a member's consultation at the draft proposal stage of the Member's Bill process. Given the subject matter of the present Bill, there are clear and obvious sustainable development implications of the Member's policy.

138. As has been demonstrated throughout this Policy Memorandum, the Bill is centred on the promotion of sustainable development. Indeed, improving the sustainability of policymaking, including building policy coherence for sustainable development across the public sector, is the primary aim of the Bill. It aims to do this by ensuring that public bodies have due regard for the need to promote wellbeing and sustainable development from the outset, and at all stages of the decision-making process.

139. It is anticipated that public bodies may choose to carry out sustainable development and wellbeing impact assessments as part of their implementation and monitoring processes following the establishment of the new public duty. The specific approach will be for each body to determine – taking into account any guidance published by the Future Generations Commissioner on this matter – as these processes are not specified in the Bill. The Member is of the view that such an approach would help to ensure that sustainable development and policy outcomes that prioritise improved wellbeing – such as living within environmental limits, achieving a sustainable economy, and helping build a healthy and just society – are given due consideration in all aspects of public sector policymaking and decision-making.

140. The Future Generations Commissioner for Scotland, which will be established by the Bill, will also play a key role in building policy coherence for sustainable development and promoting both the wellbeing of future generations and ongoing sustainable development by public bodies.

*This document relates to the Wellbeing and Sustainable Development (Scotland) Bill (SP Bill 63)  
as introduced in the Scottish Parliament on 27 March 2025*

# **WELLBEING AND SUSTAINABLE DEVELOPMENT (SCOTLAND) BILL**

## **POLICY MEMORANDUM**

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