

# Y Pwyllgor Amgylchedd a Chynaliadwyedd

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Lleoliad:

Ystafell Bwyllgora 1 – y Senedd

Dyddiad:

Dydd Mercher, 1 Hydref 2014

Amser:

08.50

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



I gael rhagor o wybodaeth, cysylltwch â:

**Alun Davidson**

Clerc y Pwyllgor

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## Agenda

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Rhag-gyfarfod preifat (08:50 – 09:00)

### 1 Cyflwyniad, ymddiheuriadau a dirprwyon

### 2 Ymchwiliad i ailgylchu yng Nghymru: Tystiolaeth gan y Gweinidog Cyfoeth Naturiol (09:00 – 10:00) (Tudalennau 1 – 47)

E&S(4)-22-14 papur 1

Carl Sargeant AC, y Gweinidog Cyfoeth Naturiol

Jasper Roberts, Pennaeth yr Is-adran Gwastraff ac Effeithlonrwydd Adnoddau

Russell Owens, Pennaeth y Rhaglen Newid Gydweithredol

Egwyl (10:00 – 10:10)

### 3 Bil Llesiant Cenedlaethau'r Dyfodol (Cymru) – Cyfnod 1: Sesiwn dystiolaeth 6 (10:10 – 10:50) (Tudalennau 48 – 81)

E&S(4)-22-14 Papur 2: Archwilydd Cyffredinol Cymru

E&S(4)-22-14 Papur 3: Swyddfa Archwilio Cymru

Huw Vaughan Thomas, Archwilydd Cyffredinol Cymru

Michael Palmer, Rheolwr Datblygu Cynaliadwy, Swyddfa Archwilio Cymru

Mike Usher, Arweinydd Sector Iechyd a Llywodraeth Ganolog, Swyddfa Archwilio Cymru

Martin Peters, Rheolwr Cydymffurfio, Swyddfa Archwilio Cymru

#### **4 Bil Llesiant Cenedlaethau'r Dyfodol (Cymru) – Cyfnod 1: Sesiwn dystiolaeth 7 (10:50 – 11:50) (Tudalennau 82 – 114)**

E&S(4)-22-14 Papur 4: WWF Cymru

E&S(4)-22-14 Papur 5: Cyfeillion y Ddaear Cymru

E&S(4)-22-14 Papur 6: RSPB Cymru

E&S(4)-22-14 Papur 7: Cyswllt Amgylchedd Cymru

Anne Meikle, Pennaeth WWF Cymru

Haf Elgar, Ymgyrchydd, Cyfeillion y Ddaear

Peter Jones, Swyddog Cadwraeth, RSPB

James Byrne, Ymddiriedolaethau Natur Cymru, yn cynrychioli Cyswllt Amgylchedd Cymru

**Egwyl (11:50 – 12:00)**

#### **5 Bil Llesiant Cenedlaethau'r Dyfodol (Cymru) – Cyfnod 1: Sesiwn dystiolaeth 8 (12:00 – 12:30) (Tudalennau 115 – 118)**

E&S(4)-22-14 Papur 8

Glenn Everett, Dirprwy Gyfarwyddwr, Is-adran Mesur Lles Cenedlaethol, Swyddfa Ystadegau Gwladol

**PWYLLGOR AMGYLCHEDD A CHYNALIADWYEDD****YMCHWILIAD I AILGYLCHU YNG NGHYMRU****TYSTIOLAETH LLYWODRAETH CYMRU****Cyflwyniad**

Mae Llywodraeth Cymru yn ddiolchgar am y cyfle i roi tystiolaeth ysgrifenedig i'r Pwyllgor ac i allu ymateb i rai o'r pwyntiau a wnaethpwyd gan ymatebwyr yn eu tystiolaeth.

Byddwn yn gyntaf yn gosod cyd-destun polisi Llywodraeth Cymru ynghych ailgylchu cyn ystyried yr atebion i'r cwestiynau penodol. Mae polisi Llywodraeth Cymru ar ailgylchu yn cyd-fynd â bwriad Gweinidogion Cymru o wneud datblygu cynaliadwy yn thema trawsbynciol sydd yn ganolog i bolisiau - i gefnogi ei dyletswydd statudol i hyrwyddo datblygu cynaliadwy o dan Ddeddf Llywodraeth Cymru. Mae'r Rhaglen Lywodraethu yn gosod y nod ar gyfer Cymru 'I fod yn "genedl un blaned", sy'n sicrhau bod datblygu cynaliadwy yn ganolog i lywodraeth.' Mae Llywodraeth Cymru yn defnyddio ôl troed ecolegol fel ffordd o fesur a yw'n cyflawni ei hymrwymiaidau datblygu cynaliadwy, h.y. ei nod yn y ddogfen Un Blaned. Blaenoriaeth ailgylchu yng Nghymru yw helpu i liniarnu y newid yn yr hinsawdd a lleihau ôl troed ecolegol Cymru trwy leihau y defnydd cyffredinol o adnoddau sylfaenol. Ar yr un pryd, mae ailgylchu yn elfen bwysig o'r ymdrech tuag at sicrhau economi gylchol i Gymru, ble y mae deunydd gwerthfawr, a mwymwy prin, yn cael eu cadw i gylchdroi o fewn economi Cymru yn hytrach na chael eu colli drwy losgi neu dirlenwi. Mae Sefydliad Ellen MacArthur wedi nodi y dylai economi gylchol arwain at arbedion blynyddol o rhwng £0.9 biliwn a £1.9 biliwn i Economi Cymru.

Pe byddai gan bawb yn y byd yr un patrwm defnyddio â'r person cyfartalog yng Nghymru, yna byddai angen gwerth tair planed o adnoddau i fodloni eu hanghenion. Mae Gweinidogion Cymru wedi rhoi Cymru ar lwybr o ddefnyddio gwerth tair planed i ddefnyddio gwerth un blaned o adnoddau (ac felly 'fyw o fewn ein terfynau amgylcheddol'). Fel a bennir yn Tuag at Ddyfodol Diwastraff (2010), mae hyn yn cynnwys lleihau y defnydd o ddeunyddiau, gan gynhyrchu cyn lleied o wastraff â phosib, a ble y mae hynny'n digwydd, sicrhau ei fod yn cael ei aildefnyddio a'i ailgylchu. O ran ailgylchu, mae Tuag at Ddyfodol Diwastraff yn pennu, erbyn y flwyddyn 2025, fod yn rhaid i'r gyfradd ailgylchu ar draws pob sector economaidd o economi Cymru fod yn 70%. Mae Cymru yn gweithio tuag at darged ailgylchu o 100% erbyn 2050. Mae Tuag at Ddyfodol Diwastraff yn ei gwneud yn ofynnol i'r ailgylchu hwn fod yn 'ddolen gaeedig' neu'n 'uwch-gylchu', a thrwy hynny gyfrannu tuag at gyflawni economi gylchol. Golyga 'dolen gaeedig' broses ailgylchu ble y caiff y deunyddiau eu defnyddio'n barhaus at yr un diben, er enghraifft potel wydr sy'n cael ei halgylchu yn gynnyrch gwydr newydd yn hytrach na chael ei hisraddio (er enghraifft cael ei defnyddio fel agreg). Golyga 'uwch-gylchu' ailgylchu sy'n ychwanegu gwerth (e.e. yn gwella manteision nwyon tŷ gwydr - fel defnyddio papur newydd gwastraff i greu cynnyrch insiwleiddio).

Mae polisi Llywodraeth Cymru ar ailgylchu felly'n dechrau gyda'r nod o ostwng yr ôl troed ecolegol cymaint â phosib er mwyn helpu i gyrraedd y nod o ddefnyddio

adnoddau un blaned a darparu economi gylchol yng Nghymru. Mae polisiâu Llywodraeth Cymru o ran hyn yn hollol gyson gyda deddfwriaeth yr UE a'r amcanion polisi, yn enwedig Roadmap to a Resource Efficient Europe yr UE a'r Seventh Environmental Action Programme.

***Ymchwilio i'r rhesymau dros yr amrywiadau mewn arferion ailgylchu gwastraff tai awdurdodau lleol yng Nghymru, ac effeithiau'r amrywiadau hyn.***

Cafodd y dystiolaeth am y rhesymau dros yr amrywiadau yn y gwasanaethau ailgylchu o fewn awdurdodau lleol, ac effaith hyn ei ddarparu gan nifer o ymatebwyr. Mae nifer o resymau am yr amrywiad hwn, gan gynnwys cynsail hanesyddol, y technolegau a'r asesiadau sydd ar gael gan awdurdodau lleol ynghylch y dullai y maent hwy yn gredu fyddai fwyaf addas ar gyfer eu hardaloedd. Bydd yr asesiadau hyn yn adlewyrchu y targedau y mae'n rhaid i awdurdodau lleol eu cyrraedd, yn hytrach na, o angenrheidrwydd, i gyflawni amcanion polisi ehangach Llywodraeth Cymru, gan gynnwys lleihau ôl troed ecolegol cymaint â phosib ac amcanion datblygu cynaliadwy eraill.

Dywedodd Pwyllgor Cynghori ar Ailgylchu yr Awdurdodau Lleol (LARAC): *"Mae LARAC yn credu y dylid penderfynu ar ansawdd deunydd yn ôl gofynion yr ailbroseswyr."*

Dim ond pan fo ailbroseswyr yn cyfrannu at **ailgylchu o safon uchel** y mae hyn yn wir - sy'n cydfynd â strategaethau a chyfreithiau yr Undeb Ewropeaidd. Mae gwahanol ailbroseswyr yn gweithredu i safonau amgylcheddol a masnachol gwahanol. Fodd bynnag, un nodwedd o'r amrywiaeth o fewn arferion ailgylchu yw'r diffyg cysondeb wrth gyflwyno deunyddiau i ailbroseswyr - a'r goblygiadau amgylcheddol ac economaidd sy'n dilyn.

Mae LARAC hefyd yn dadlau bod amgylchiadau'n golygu nad oes modd defnyddio'r dull Glasbrint yn gyffredinol:

*"Mae'r ffaith bod systemau casglu sydd ddim yn cyd-fynd â'r Patrwm yn rhoi lefelau uchel o ddeunyddiau sydd â marchnad derfynol yn dangos bod angen i amgylchiadau lleol ddylanwadu ar systemau casglu."*

Mae'n wir bod rhai gwasanaethau casglu sydd ddim yn cyd-fynd â'r Glasbrint yn nodi cyfraddau ailgylchu uchel. Fodd bynnag, datblygwyd y Glasbrint Casgliadau i gynghori awdurdodau lleol ar sut i sicrhau cydbwysedd rhwng cyfraddau uchel o ailgylchu, costau isel a'r canlyniadau amgylcheddol gorau (sy'n cael ei fesur gan effaith ôl troed ecolegol). Nid yw cael marchnad derfynol yn ddigon; mae'n rhaid eu bod yn farchnadoedd terfynol sy'n cyfrannu at ailgylchu o safon uchel. Er hynny, mae Llywodraeth Cymru yn cydnabod y gellid cael amgylchiadau o fewn ardaloedd yr awdurdod lleol ble nad yw'r Glasbrint (sef casglu deunyddiau ar wahân mwy neu lai) yn ymarferol. Mewn amgylchiadau o'r fath, dylid defnyddio y 'prawf TEEP' (fel a ddarperir gan Erthygl 11 Cyfarwyddyd Fframwaith Gwastraff yr UE, fel a drawsosodwyd yng Nghymru o dan Reoliad 13 Rheoliadau Gwastraff (Cymru a Lloegr) 2011 (fel a ddiwygiwyd)) a dylid darparu gwasanaethau sy'n fwy addas ar gyfer yr amgylchiadau hynny. Mae'r prawf TEEP yn profi a yw casgliadau ar wahân yn ymarferol yn dechnegol, yn amgylcheddol ac yn economaidd. Ar lefel yr

awdurdod lleol, fodd bynnag, barn Llywodraeth Cymru, yn seiliedig ar y dystiolaeth, yw bod casgliadau ar wahân yn bosibl ym mhob math o awdurdod lleol, gyda rhai ardaloedd neu rhai mathau o eiddo yn galw am randdirymiad o bosib.

O dan y Rhaglen Newid Gydweithredol, mae'n bosibl i awdurdodau lleol ofyn am adolygu'r gwasanaethau casgliadau cyfan a bod y dull Glasbrint yn cael ei brofi yn seiliedig ar amgylchiadau unigol yr awdurdodau hynny.

***I ba raddau y mae arferion ailgylchu awdurdodau lleol yn gydnaws â phatrwm casgliadau Cynllun Sector Gwastraff Trefol Llywodraeth Cymru, ac edrych beth yw'r rhwystrau a'r hwyluswyr i ymlynu.***

Mae dyletswydd ar awdurdodau lleol i gydymffurfio â'r gofyniad i wneud casgliadau ar wahân fel a nodir yn Rheoliad 13 Rheoliadau Gwastraff (Cymru a Lloegr) 2011, fel a ddiwygwyd. Mae hyn yn ei gwneud yn ofynnol i awdurdodau lleol a chwmmnïau rheoli gwastraff preifat sefydlu, erbyn 1 Ionawr 2015, gasgliadau ar wahân ar gyfer papur, gwydr, metal a phlastig ble y bo angen hynny er mwyn sicrhau ailgylchu o safon uchel, a'i fod yn ymarferol yn dechnegol, yn amgylcheddol ac yn economaidd. Nid yw cymysgu wrth ailgylchu yn gasglu ar wahân. Barn Llywodraeth Cymru yw nad yw'r gwasanaeth Patrwm Casgliadau yn gydnaws â Rheoliad 13 (fel y'i diwygwyd).

Mae gan yr awdurdodau lleol canlynol, neu maent wedi cyhoeddi bwriad i gael, gwasanaethau sy'n cyd-fynd â'r Glasbrint Casgliadau: Ynys Môn, Conwy; Powys; Casnewydd; Torfaen; Pen-y-Bont ar Ogwr; Merthyr Tudful a Blaenau Gwent. Mae Castell-nedd Port Talbot yn treialu'r Glasbrint ac mae'n bosibl y byddant yn ei fabwysiadu'n fuan.

Hefyd, mae nifer o awdurdodau sy'n darparu casgliadau ar-wahân, sy'n casglu ar ochr y ffordd, a sydd, er nad ydynt yn Lasbrint, yn cyd-fynd yn agos a'r cynllun hwn: Gwynedd, Sir Fflint a Wrecsam. Mae Abertawe yn darparu gwasanaeth gwahanu gwastraff sydd, er nad yw yn casglu ar ochr y ffordd, mae'n bwriadu cydymffurfio â'r gofynion o gasglu ar wahân, sy'n dechrau ar 1 Ionawr 2015.

O'r naw o awdurdodau lleol sy'n weddill, mae Sir Fynwy, Caerdydd, Rhondda Cynon Tâf a Cheredigion ar hyn o bryd yn edrych ar yr opsiynau o ran cyflenwi'r gwasanaeth. Nid yw Sir Ddinbych, Caerffili, Bro Morgannwg, Sir Gaerfyrddin a Sir Benfro yn ystyried dewis amgen i gasgliadau cymysg.

Cyngor yw Patrwm Casgliadau Llywodraeth Cymru ar hyn o bryd yn hytrach na'i fod yn orfodol i awdurdodau lleol. Mae'n cynnig dull o ailgylchu sy'n rhoi y cyfleoedd gorau i Lywodraeth Cymru:

- i leihau ôl troed ecolegol;
- i gael gwasanaethau ailgylchu rhatach; ac
- o ran defnyddio adnoddau'n effeithlon a'i gwneud yn haws i ddeunyddiau o safon uchel gael eu cadw o fewn yr economi gylchol.

Mae'r ffynonellau tystiolaeth sydd wedi llywio'r Patrwm i'w gweld yn Atodiad 1.

Mae manteision mabwysiadu'r Patrwm yn ehangach yn cynnwys sicrhau y manteision sy'n cael eu rhestru uchod. Maent hefyd yn cynnwys y posibilrwydd o safoni gwasanaethau, lleihau costau a chaffael fflydau a chynhwyswyr sydd â'r gwerth gorau am arian. Mae y rhwystrau i fabwysiadu y Patrwm yn ehangach yn cynnwys amharodrwydd rhai i dderbyn sylfaen dystiolaeth Llywodraeth Cymru i gefnogi'r dull hwn o weithio. Ble nad oes amharodrwydd o'r fath, y rhwystr yn bennaf yw costau cyfalaf gwneud newid o'r fath. Gallai'r gost hon gael ei lliniaru drwy sicrhau bod y newidiadau i'r gwasanaeth yn cyd-fynd â diwedd contractau ar gyfer cerbydau ac ati.

Mae Cyngor Sir Fynwy wedi tynnu sylw at y ffaith mai'r rheswm nad yw'r Patrwm yn cael ei ddilyn yn gyffredinol yw bod Llywodraeth Cymru yn blaenoriaethu cynaliadwyedd ac yn anwybyddu elfennau eraill:

*"Mae strategaeth wastraff Llywodraeth Cymru ac ymgynghoriad Y Gyfarwydddeb Fframwaith Gwastraff Ddiwygiedig yn canolbwyntio ar gynaliadwyedd yn unig, ac eto dim ond un o'r pethau sydd angen eu hystyried yw cynaliadwyedd wrth inni gyflawni ein swyddogaethau statudol."*

Mae'n iawn bod strategaethau a pholisïau Llywodraeth Cymru yn dechrau o safbwynt amgylcheddol a chynaliadwyedd; fodd bynnag, mae'r olaf hefyd yn cynnwys amcanion economaidd a chymdeithasol. Nod y strategaeth wastraff yw cyfrannu cymaint â phosib tuag at leihau effaith yr ôl troed ecolegol cyffredinol, ac i ddarparu canlyniadau economaidd a chymdeithasol da ar yr un pryd, a lleihau costau y gwasanaeth. Mae data sy'n cael ei gasglu gan Gymdeithas Llywodraeth Leol Cymru (CLILC) a'r modelu sydd wedi'i wneud gan ac ar ran Rhaglen Gweithredu'r Cynllun Gwastraff ac Adnoddau i nifer o awdurdodau lleol yng Nghymru yn awgrymu y bydd y Patrwm Casgliadau yn arbed arian yn ogystal â sicrhau y canlyniadau gorau o ran datblygu cynaliadwy. Mae hyn yn cyd-fynd â chanfyddiadau'r ymgynghorwyr Eonomia, ddaeth i'r casgliad, wrth gyrraedd lefelau uwch o ailgylchu, y byddai arbedion ariannol y Patrwm Casgliadau yn cynyddu - gan gyrraedd oddeutu £20 miliwn y flwyddyn.

Mae safbwynt Cyngor Sir Fynwy yn adlewyrchu barn nifer o awdurdodau lleol, ac mae'n ymddengys ei fod yn gysylltiedig â'u dehongliad o Adran 2 Mesur Llywodraeth Leol (Cymru) 2009:

Dyletswydd gyffredinol mewn perthynas â gwella

(1) Rhaid i awdurdod gwella Cymreig wneud trefniadau i sicrhau gwelliant parhaus wrth arfer ei swyddogaethau.

(2) Wrth gyflawni ei ddyletswydd o dan is-adran (1), rhaid i awdurdod roi sylw penodol i'r angen am wella'r modd y mae'n arfer ei swyddogaethau o ran—

- (a) effeithiolrwydd strategol;
- (b) ansawdd gwasanaethau;
- (c) argaeledd gwasanaethau;
- (d) tegwch;
- (e) cynaliadwyedd;
- (f) effeithlonrwydd; ac

(g)arloesi.

(3)I gael ystyron paragraffau (a) i (g) o is-adran (2), gweler adran 4.

Safbwynt Llywodraeth Cymru yw bod y Patrwm Casgliadau yn hyrwyddo effeithiolrwydd strategol, yn gwella ansawdd y gwasanaeth, yn sicrhau bod y gwasanaeth ar gael yn haws, yn deg, yn gynaliadwy, yn effeithlon ac yn hyrwyddo arloesedd. Nid oes unrhyw wrthdaro rhwng Llywodraeth Cymru yn hyrwyddo y Patrwm Casgliadau a gwasanaethau o safon uchel sy'n canolbwyntio ar y dinesydd. Hefyd, barn Llywodraeth Cymru yw bod y Patrwm Casgliadau yn cydymffurfio â'r gyfraith yn gyfan-gwbl.

***Asesu a yw gwybodaeth ac arweiniad ar gael i ddeiliaid tai ynglŷn â pham a sut y dylent fod yn ailgylchu, ac edrych ar beth yw'r rhwystrau posibl, a beth yw'r hwyluswyr i wella cyfraddau ailgylchu.***

Mae Llywodraeth Cymru yn ariannu Cynllun Craff am Wastraff Llywodraeth Cymru (sy'n cael ei gynnal gan CLILC) i gyflwyno negeseuon am ailgylchu a chefnogi awdurdodau lleol i drosglwyddo negeseuon. Po fwyaf safonol yw'r gwasanaethau ailgylchu ledled Cymru, po hawsaf, a'r mwyaf cost effeithiol yw i'r Cynllun Craff am Wastraff ddefnyddio negeseuon ledled Cymru gyda themau cyson.

Unwaith y mae deiliaid tai a busnesau yng Nghymru yn deall yr hyn sydd i'w ddisgwyl ganddynt o ran cymeryd rhan mewn gwasanaethau ailgylchu, mae'r rhan fwyaf ohonynt yn cymeryd rhan. Mae hyn yn digwydd waeth beth yw'r dull ailgylchu sy'n cael ei ddefnyddio. Mae'r rhwystrau i ailgylchu mwy yn cynnwys y math o wastraff (e.e. deunydd pacio cyfansawdd amldeunydd), capasiti ailbrosesu addas (e.e. ar gyfer cynnyrch hylendid sy'n amsugno) a'r prisiau newidiol ar gyfer deunydd ailgylchu. Mae Llywodraeth Cymru yn cydnabod y bydd angen iddi weithredu ymhellach i helpu i oresgyn y rhwystrau hyn ac yn gweithio gyda'i hasiantaethau cyflenwi er mwyn sicrhau hyn.

***Ymchwilio i ymateb awdurdodau lleol i'r Trywydd Rheoliadau Gwastraff a gyhoeddwyd yn ddiweddar, ac effeithiau a goblygiadau posibl hwn ar arferion ailgylchu ledled Cymru.***

Bu nifer o ymatebion gan yr awdurdod lleol i'r 'Ymgynghoriad ar Ganllawiau Statudol ar Gasglu Gwastraff Papur, Metel, Plastig a Gwydr ar Wahân' a gyhoeddwyd gan Lywodraeth Cymru ym mis Ebrill 2014. Mae'r rhain yn cael eu hystyried a bydd Llywodraeth Cymru yn ymateb iddynt maes o law. Mae rhai o'r ymatebion gan awdurdodau lleol yn debyg mwy neu lai i ymatebion awdurdodau lleol i'r 'Trywydd Rheoliadau Gwastraff' a gyhoeddwyd gan WRAP gan bod hyn yn cyd-fynd â'r Canllawiau Statudol drafft.

***Cael gwell dealltwriaeth o'r berthynas rhwng arferion casglu deunydd ailgylchu a chyfraddau ailgylchu.***

Mae'r dadansoddiad cychwynnol o'r data gan awdurdodau lleol ar y system WasteDataFlow yn awgrymu bod tan-gofnodi anfwriadol o'r cyfraddau gwrthod gan nifer o awdurdodau lleol, gan ei gwneud yn anodd felly i gymharu perfformiad mewn ffordd ystyrlon. Mae Llywodraeth Cymru wedi gofyn i WRAP gynllunio'r llif o ddeunyddiau gwastraff o ddeiliaid tai i gyrchfannau terfynol, gan ystyried y rhai sy'n gwrthod ar bob rhan o'r daith.

Bydd Rheoliadau'r Cyfleuster Ailgylchu Deunyddiau sy'n berthnasol o fis Hydref 2014, gobeithio, yn golygu y caiff y nifer sy'n gwrthod neu'n llygru y Cyfleuster Ailgylchu Deunyddiau eu mesur yn fwy cywir. Mae'r Cyfleuster yn amrywio o gyfleusterau didoli safonol sydd wedi derbyn deunyddiau cymysg i gyfleusterau eilaidd a thrydyddol sy'n didoli deunyddiau i gynhyrchu deunyddiau o safon uwch.

Barn Llywodraeth Cymru, yn seiliedig ar y dystiolaeth sy'n cael ei darparu gan WRAP a nifer o ymgylchreion yw y bydd cyfraddau ailgylchu **net** ychydig yn wahanol rhwng awdurdodau lleol sy'n defnyddio casgliadau ar wahân (fel yn y Patrwm) a'r rhai sy'n defnyddio casgliadau cymysg. Fodd bynnag, mae gwaith diweddar gan WRAP yn dangos, pe byddai hyn yn cael ei ddefnyddio ledled Cymru, yna byddai gwasanaethau sy'n cyd-fynd â'r Patrwm Casgliadau yn arwain at gyfradd ailgylchu genedlaethol o dros 70%. Bydd hyn yn wir am wasanaethau cymysg hefyd. Mae'r dystiolaeth fodd bynnag yn nodi bod manteision amgylcheddol ac ariannol cyrraedd cyfraddau ailgylchu uchel tebyg yn llawer mwy. Mae hyn yn cynnwys effaith ôl troed ecolegol llai a chostau is fesul uned wrth gyflawni gwasanaethau.



## ANNEX 1

### EVIDENCE USED TO DEVELOP, UPDATE AND TEST THE COLLECTIONS BLUEPRINT

- ADAS UK LTD, 2006. This was the first attempt, some four years after local authorities embarked on higher levels of recycling, to measure the respective carbon impacts of separate collections of recyclables and co-mingled collections of recyclables. It clearly demonstrated the carbon impacts of Materials Recovery facilities (MRFs).

Since the study was carried out there have been changes that have led to there being even greater differences between the carbon impacts of the respective approaches. The development of Resource Recovery Vehicles (RRVs) specifically designed to enable recycling collections using fuel efficient vehicles has reduced the carbon impacts of separately collecting recyclables.

The value of separate collections is that materials can be prepared and bulked at a depot and then sent on directly to re-processors. Co-mingled materials require MRFs. The ADAS study assumed a primary MRF only. Several waste companies now openly describe their business models as being based on performing secondary sorting. The primary MRF will sort into material types and a secondary MRF will sort into paper grades, plastic polymers, glass colours etc. Such secondary sorting is required to produce materials required by re-processors that are carrying out high quality recycling. The introduction of secondary sorting introduces a new tier of carbon (and financial) costs.

- Eunomia Kerbside Collections Options Wales, January 2011. The most data intensive study of collection methods and their consequences ever undertaken, with detailed reports for 6 participating local authorities. This study concluded that at high levels of recycling the costs differences between kerbside sort and co-mingled services would become magnified. The report estimated annual savings to Wales of ca. £20 million if all local authorities pursued the Blueprint approach. It is important to note that the Eunomia study was not able to consider the most up-to-date Blueprint services (e.g. Bridgend and Conwy) which developed later. Consequently, it would be reasonable to assume that the savings might be larger than estimated in the report.
- 4R Environmental analysis of procurement outcomes. The contention that kerbside sort services will prove to be lower cost is borne out in this report by 4R Environmental. The report shows that where tenders for different approaches were allowed that the kerbside sort tenders tended to be significantly lower cost. The study covers April 2008 to February 2012.
- The ARUP Ecological Footprint report, May 2009. This report suggests that for some materials, including plastics and glass, that there is a significant difference in ecological impact between high and low quality recycling (in the context of what happens to of materials).

- The European Declaration on Paper Recycling 2011 to 2015. This declaration reflects the view of the relevant recycling sector for paper that co-mingling should be phased out and replaced with separate collections, to support high quality recycling:

*“To secure [sic] used paper collected in Europe can be recycled in the paper industry, multi-material collection schemes (“co-mingled collection”) where all recyclable materials are collected in one stream must not spread further in Europe and must be phased out where it already exists. Co-mingled collection leads to contact with organic materials, a higher share of unusable materials and refuse and is therefore less resource efficient and more costly.*

*Countries where co-mingled collection is predominant today must make significant progress towards the targets on separate collection set out by the Waste Directive.”*

- The WRATE analysis for WRAP by Environmental Resources Management Ltd, March 2009. This study concluded that the environmental impacts of separate collections were lower than the environmental impacts of co-mingled collections. The study was based on use of the Waste and Resources Assessment Tool for the Environment (WRATE) developed by the Environment Agency. Whilst the tool was not designed to model differences in collection methods *per se* its use and conclusions are consistent with other studies.
- The KAT analysis by WRAP, March 2009. The Kerbside Analysis Tool (KAT) has been developed to model the financial impacts of different methods of collection. In this report by WRAP it was concluded that separate collections would tend to be lower cost than co-mingled collections. The KAT model has been used to carry out options appraisals for several different local authorities under the Collaborative Change Programme (CCP). The process has involved the active participation and co-operation of local authority officers and the use of local authority specific data. In all cases separate collection options have been shown to be lower cost.
- Grant Thornton/Oakdene Hollins Carbon Agenda report on glass recycling – showing carbon benefits of re-melt. This report highlights the carbon difference between re-melt and non re-melt applications for recycling glass. Re-melt options have a lower carbon impact.
- ACR+ and FEVE, the European Container Glass Federation published: Glass Recycling and Separate Waste Collection: Key Drivers Towards a Circular Economy in 2012:

*“In separate collection systems the processed material is of better quality to meet the specifications necessary for the bottle-to-bottle production and is cost competitive in relation to the use of virgin raw materials. Other systems, like co-mingled collections can be either too costly or provide glass only suitable for low-grade applications (e.g. as aggregate). These applications are*

*literally a waste – because the material is lost forever from the circular economy.”*

- MRF Output Material Quality Thresholds report, November 2009. Resource Futures was commissioned by WRAP to investigate the quality requirements of UK re-processors and their relationship to the output from UK materials recovery facilities (MRFs). The results found high levels of contamination in the output from MRFs, which are classed as being recycled. The compound loss for a typical ‘basket’ of material collected for recycling is ca. 20%.
- MRF Quality Assessment Study report, WRAP, November 2009. The aim of this project was to provide robust data on the composition of input, output and residual waste materials at MRFs across England, Wales, Northern Ireland and Scotland. The data provides information on the quality of material processed at MRFs and material contaminant levels. This showed that across the 17 MRFs studied, the median level of contamination of the incoming co-mingled material was 6.4% to 17.5%.
- Choosing the right collection system, WRAP June 2009. In this guidance WRAP concluded that:

*“On the evidence available to WRAP, our view is that kerbside sort systems offer reliable material quality and lower net costs for council taxpayers. They are also capable of capturing the same volume of material as co-mingled schemes. There is no evidence that their operation – properly explained and justified – is unacceptable to householders and the physical evidence of sorting of materials happening at the kerbside is reassuring to sceptical residents. There appear to be no unmanageable health and safety considerations. Because of our priority for quality materials as a way to improve resource efficiency, WRAP believes that kerbside sort collections should be preferred where they are practical and that should be in the majority of local authority areas.”*

Oakdene Hollins Ltd ‘Maximising Reuse and Recycling of UK Clothing and Textiles’ report for Defra, October 2009. The report suggested that separate collections of textiles would be needed to promote high quality recycling:

*“The availability of kerbside collection of used textiles has almost doubled since 2002 to over 30%, but is still only half of that for glass, plastics and metals. The growth of co-mingled household collections is a threat to greater recycling and reuse, as textiles are unattractive to MRF operators and the collection methods often result in poor quality.”*

- Future Perfect, Biffa 2003, which includes: *“Biffa considers that the earlier in the materials recovery stage that separation of materials can be effected the better the overall system and the lower the likely environmental impact and cost. The householder is ideally placed to act in a way in which dry recyclables (and organic materials) are kept out of the waste, reducing both contamination and the quantity of residual waste for final disposal. This can capture a high level of the available materials in a form which would be*

*welcomed by many processors, circumventing any need for MRFs, which tend to be both labour and capital intensive”.*

This illustrates the rationale for separate collections that the waste industry promoted ten years ago. The Welsh Government took account of such arguments during the development of its strategies and policies. It is considered that this rationale applies just as much today – that separate collections have lower environmental impacts and enable local authorities to provide lower cost services.

- Zero Waste Scotland report, March 2014, on contamination in separately collected materials. This report published in March 2014 shows that contamination rates in separate collected fractions tend to be very low.
- A Caerphilly Council Regeneration and Environment Scrutiny Committee report of 10 December 2013. This report refers to contamination issues and impacts on the Council’s co-mingled collection service:

*“During this period our collection crews had been trying to identify properties that are placing non-targeted materials in their bins and attach stickers to the bins advising of the problems.*

*The above exercise resulted in a reduction in the amount of recycling we are collecting at the kerbside (over 15% in some areas) with a similar increase in tonnages being delivered to our Household Waste Recycling Centres (HWRC). Whilst this material is not lost from our recycling performance, it is sent to a MRF better suited to dealing with a combination of materials. Again, this is at a substantially increased cost.”*

- The Local Authority Carbon Recycling Index produced by Eunomia, July 2014. This report provides an alternative metric of environmental performance of recycling services based on carbon impacts. Separate collection services tend to perform better in carbon terms than co-mingled services. The data shows that both Powys and Cheshire West and Chester (the best performer) improved their carbon performance following a switch from co-mingling to kerbside sort based separate collections.
- The Collections Blueprint report. WRAP commissioned a report by Eunomia examining the likely impacts if all local authorities in Wales were to implement Blueprint recycling services. These would include separate collections of recyclables, food waste being collected on the same vehicles as dry recyclables, restricted residual waste storage capacity and the other aspects of the Blueprint approach. The study looked at recycling/waste services across the UK that included the main aspects of the Blueprint approach. Where there were significant aspects that were absent (e.g. restricted residual waste capacity) the data was adjusted accordingly (as explained in the report). The conclusion is that there is extremely strong evidence to suggest that full adoption of the Blueprint will result in a national recycling rate of at least 69%. Combined with other measures there is a probability of comfortably exceeding the 70% target.

- Resource Recovery Vehicle (RRV) Report. WRAP has commissioned a review of the different RRVs available on the market. This report considers relevant technical specifications and considers advantages and disadvantages with different models. It illustrates the good fuel economy achieved by these vehicles.
- End destination reports for Wales. The end destinations reports for the Welsh Government have highlighted that the information about the end destinations of materials is poor. A separate study is being carried out by WRAP to try and improve mass flow analysis.
- It is possible that MRF recycling rates are being over-reported via WasteDataFlow. The WRAP reports on MRF contamination previously referred to suggest potential overall contamination rates of outputs in excess of 20%. In an article in 'Materials Recycling Week' ['MRF key to improving real recycling rates' - 26 July 2013] John Glover the Managing Director of Bywaters, which operates a large MRF in London, wrote:

*"If truth and reality are accepted using existing norms true recycling rates could flatline in 2012 and 2013.*

*When recycle prices were high in 2011 all parties were driven forward on a strong wind and contamination and fines were effectively ignored.*

*But reality hit hard in 2012 in both the public and private sectors and we all have had to address the issues or go home. I believe the corrected norm of 5% contamination/fines became 18%+ by the end of 2012 and this is how we started 2013. There will be those that wish to ignore the facts but if the new Defra MRF rules are implemented later this year and the sampling is effectively standardised there will be no hiding place for delivering excessive fines/contamination to a MRF."*

If MRF rejects are being under-reported, especially if contamination is as high as Mr Glover reports, then this will lead to over reporting of recycling rates.

- Over the last 10 years WRAP has been providing support to hundreds of LAs in England, NI and, latterly, Wales. During the course of this work WRAP or its appointed contractors have used modelling tools to compare the performance of the various collection systems: multi-stream (separate collections), single stream co-mingled and twin stream co-mingled. In the overwhelming majority of cases the multi-stream separate collections have performed better.

**Contrary evidence:**

- There is other evidence that does not support the Blueprint approach and this has also been considered.
- WasteDataFlow. Over recent years the recycling rates obtained via WasteDataFlow have in many cases shown that authorities that operate single stream co-mingled systems often record higher recycling rates than those collecting separately. The view of the Welsh Government is that these reasons need to be properly understood before a conclusion on policy is reached.
- White Young Green (WYG) has produced reports which it claims show that yields of materials are higher where co-mingled collections are used. It uses information from WasteDataFlow to demonstrate that weights of recyclables collected (rather than proportions) are higher where co-mingled.
- The Welsh Government considered the WYG reports carefully and concluded that there were a number of flaws in the approach taken to the analysis of the information available. If inaccurate reject rates from MRFs are accepted (and they were unless the reject rates reported were zero) then the calculations based on them will be flawed.
- In their environmental assessment WYG did not differentiate between the type of recycling of the materials (ie. whether closed or open loop) and assumed that the environmental impacts of all forms of recycling are the same. This contrasts with the evidence referenced by the Welsh Government, drawn from other sources.
- The WYG reports make no analysis of other factors that affect recycling rates including the restriction of residual waste storage capacity through either smaller containers or less frequent collections. The report also fails to consider the impact of the range of materials collected. The Blueprint approach results in a wider range of materials being collected than some of the previous kerbside sort services.

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon



Mae cyfyngiadau ar y ddogfen hon

# Eitem 3

Mae cyfyngiadau ar y ddogfen hon

# Ymchwiliad Pwyllgor Amgylchedd a Chynaliadwyedd Cynulliad Cenedlaethol WFG 20

## Bil Llesiant Cenedlaethau'r Dyfodol (Cymru)

### Ymateb gan Archwilydd Cyffredinol Cymru

Ymateb Archwilydd Cyffredinol Cymru i ymgynghoriad y Pwyllgor Amgylchedd a Chynaliadwyedd ar egwyddorion cyffredinol Bil Llesiant Cenedlaethau'r Dyfodol (Cymru)

#### Crynodeb

1. Rwy'n croesawu diben cyffredinol datganedig y Ddeddf, h.y. "sicrhau bod trefniadau llywodraethu cyrff cyhoeddus i wella llesiant Cymru yn ystyried anghenion cenedlaethau'r dyfodol". Mae hyn yn cynnig cyfle i fynd i'r afael â materion a godwyd yn rhai o'm hadroddiadau, megis *Datblygu cynaliadwy a gwneud penderfyniadau busnes yn Llywodraeth Cynulliad Cymru* (2010), ac yn adroddiad Comisiwn Williams. Rwy'n meddwl bod y ddarpariaeth ar gyfer "bwriad cyffredin" (gwella llesiant economaidd, cymdeithasol ac amgylcheddol yn unol â'r egwyddor datblygu cynaliadwy) yn briodol, er fy mod yn meddwl y dylai'r materion i'w cymryd i ystyriaeth wrth gymhwyso'r egwyddor datblygu cynaliadwy gynnwys byw o fewn terfynau amgylcheddol. Rwyf hefyd yn credu y byddai dull gweithredu wedi'i seilio'n gliriach ar egwyddorion, yn hytrach nag un sydd wedi'i gymysgu gyda dull gweithredu wedi'i seilio ar nodau ac amcanion, fel y nodir yn y Bil, yn symlach ac, mae'n debyg, yn fwy effeithiol.
2. Rwy'n siomedig bod y Bil yn methu'r cyfle i fynd i'r afael â rhai o'r rhwystrau posibl i'w roi ar waith. Mae hyn yn cynnwys gadael allan diwygio Mesur Llywodraeth Leol (Cymru) 2009, sy'n darparu dull gweithredu cynllunio gwelliant sy'n groes i gysyniad y Bil o ddatblygu cynaliadwy fel yr egwyddor graidd ar gyfer gweithrediadau cyrff cyhoeddus. Yn yr un modd, bydd diffyg swyddogaeth adolygu benodol i'r Archwilydd Cyffredinol yn y Bil yn arwain at fwlch disgwyliad mewn perthynas â threfniadau adolygu na fydd, rwy'n credu, o unrhyw gymorth i gyflawni dibenion y Bil.

#### Sut y dylai Llywodraeth Cymru ddeddfu er mwyn gosod cynaliadwyedd a datblygu cynaliadwy wrth wraidd y Llywodraeth a'r sector cyhoeddus yn ehangach

3. Rwy'n meddwl ei bod yn briodol y dylai Llywodraeth Cymru geisio deddfwriaeth i osod datblygu cynaliadwy wrth wraidd y Llywodraeth a'r sector cyhoeddus yn ehangach. Wedi dweud hynny, byddai'r dull gweithredu seiliedig ar egwyddor a nodwyd ym Mhapur Gwyn Llywodraeth Cymru, *Cymru Gynaliadwy: Dewis Gwell ar gyfer Dyfodol Gwell* (2012), yn hytrach na'r dull gweithredu seiliedig ar nodau ac amcanion a nodir yn y Bil, yn symlach ac, mae'n debyg, yn fwy effeithiol. Rhoddaf ragor o fanylion ar y pwynt hwn isod.

#### Egwyddorion cyffredinol y Bil Llesiant Cenedlaethau'r Dyfodol (Cymru) a'r angen am ddeddfwriaeth yn y meysydd a ganlyn –

- Y "bwriad cyffredin" a'r "egwyddor datblygu cynaliadwy" a bennir yn y Bil a'r "cyrff cyhoeddus" a nodir
4. Mae'r cyfuniad o'r "bwriad cyffredin" (cymal 2) a'r "egwyddor datblygu cynaliadwy" (cymal 3), yn fy marn i, yn ddull gweithredu tra ystyriol ac ymarferol o sefydlu datblygu cynaliadwy fel prif egwyddor drefniadol y sector cyhoeddus yng Nghymru. Mae'r ailosod y ffrâm gyfeirio ar gyfer gweinyddiaeth gyhoeddus yng Nghymru. O'i rhoi ar waith mewn ffordd drylwyr a chymesur,

mae potensial i hon gael effaith gadarnhaol ar ansawdd gwaith gwneud penderfyniadau a llywodraethu yn y cyrff cyhoeddus a ragnodir yng Nghymru.

5. Yn 2005, dywedodd y Sefydliad ar gyfer Cydweithrediad a Datblygiad Economaidd bod gweithredu datblygu cynaliadwy mewn ffordd effeithiol yn galw am, ymysg pethau eraill, cyd-ddealltwriaeth o ddatblygu cynaliadwy. Dylai'r "bwriad cyffredin" a'r "egwyddor datblygu cynaliadwy" gynorthwyo â sefydlu cyd-ddealltwriaeth o'r fath.
6. Er mwyn rhoi cyfeiriad effeithiol ac ymarferol i ddylanwadu ar ymddygiad gwneud penderfyniadau, mae o gymorth bod y Bil yn nodi nifer gyfyngedig o faterion i'w hystyried er mwyn cyflawni'r egwyddor datblygu cynaliadwy (cymal 8(2)). Fodd bynnag, rwy'n barnu mai un mater allweddol sydd ar goll yw gwella llesiant o fewn terfynau amgylcheddol.

**- Y dull gweithredu o ran gwella llesiant, gan gynnwys pennu nodau llesiant, pennu amcanion llesiant gan gyrff cyhoeddus a'r dyletswyddau ar gyrff cyhoeddus**

7. Nid yw o gymorth bod y Bil yn cymysgu dull gweithredu rheoli yn unol ag amcanion gyda dull gweithredu seiliedig ar egwyddorion. Rwy'n cydnabod bod gosod nodau cenedlaethol yn ymddangos yn ddeniadol ac yn adlewyrchu proses y Cenhedloedd Unedig o bennu nodau Datblygu Cynaliadwy. Mae pennu nodau effeithiol ar lefel genedlaethol yn heriol iawn. Mae'n peri'r risgiau penodol canlynol:
  - mae'n bosibl na fydd y nodau'n ffactorau effeithiol i sbarduno'r newid mae'r Bil yn ceisio ei sicrhau, gan ei bod yn bosibl y bydd cyrff cyhoeddus yn dynodi eu gweithgareddau presennol o dan y nodau hyn, ond
  - mae nodau mwy penodol yn gyfystyr â phennu targedau, a all arwain at arferion aneffeithiol micro-reoli a chwarae yn unol â'r rheolau ond heb gyflawni canlyniadau da mewn gwirionedd<sup>1</sup>.
8. Un o fanteision allweddol dull gweithredu seiliedig ar egwyddorion yw y gellir ei gymhwyso ar bob lefel, ac i amrywiaeth o gyrff, mewn ffordd ystyrlon a chymesur. Gellir ei gymhwyso mewn ffordd gymesur i benderfyniadau allweddol, megis cynllunio corfforaethol, pennu cyllidebau a chaffael. Gall cymhwyso mewn ffordd gymesur fel hyn helpu i leihau i'r eithaf risg mwy o fiwrocratiaeth. Yn wir, yn fy marn i byddai'r dull gweithredu wedi'i seilio'n gliriach ar egwyddorion ym Mhapur Gwyn 2012 wedi galluogi cyrff cyhoeddus (a'u rhanddeiliaid) i gymhwyso'r egwyddor datblygu cynaliadwy i'r gwaith o gytuno ar y canlyniadau maent yn ceisio eu sicrhau, ac i gytuno ar y ffordd y maent yn ceisio cyflawni'r canlyniadau hynny. Rwy'n ofni, yn anffodus, y bydd y cyfuniad o ddull gweithredu rhagnodedig o bennu amcanion yn peri ymddygiad mwy mecanistig, gan arwain at yr anfanteision a nodir uchod.
9. Er bod y meini prawf ar gyfer dewis y nodau, a nodir ym mharagraff 71 (tudalen 24) o'r Memorandwm Esboniadol, yn ymddangos yn dra ystyriol, nid yw'n glir y bydd y nodau a nodir yn y Bil yn "arwain rhyngddynt at Gymru gynaliadwy sy'n parchu'r terfynau amgylcheddol". Nid oes unrhyw sôn am derfynau amgylcheddol yn y nodau nac yn y disgrifiadau ohonynt. Mae

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<sup>1</sup> Gweler, er enghraifft, *The nature of planning constraints*, Adroddiad i Bwyllgor Cymunedau a Llywodraeth Leol Tŷ'r Cyffredin, Prifysgol Caergrawnt, Mawrth 2014. Hefyd, *Systematic side effects of over-prescribing goal setting*, Papur Gwaith, Ordóñez et al, Harvard Business School, 2009.

amrywiaeth fawr o ymchwil ryngwladol<sup>2</sup> yn nodi mai cyfeirio at derfynau amgylcheddol sy'n gwahaniaethu datblygu cynaliadwy o "fusnes fel arfer".

**- Y dull gweithredu o ran mesur cynnydd tuag at gyrraedd y nodau llesiant a chyflwyno adroddiadau ar gynnydd**

10. Rwy'n barnu bod darpariaethau'r Bil ar gyfer dangosyddion cenedlaethol ac adroddiad llesiant blynyddol yn briodol. Mae'r fath ddangosyddion a gwaith adrodd yn bwysig i gynyddu gallu pobl a'r llywodraeth i olrhain cynnydd, hyd yn oed os mewn termau bras yn unig. Fodd bynnag, mae'n bwysig bod yn realistig ynghylch y dangosyddion hyn: mae pennu dangosyddion defnyddiol a phriodol yn dasg anodd, ac ni all darpariaethau'r Bil ynddynt eu hunain warantu y byddant yn berthnasol, yn fesuradwy ac yn fanwl gywir. Mae'n galonogol gweld bod Llywodraeth Cymru wedi ymgysylltu â'r Swyddfa Ystadegau Gwladol ac wedi manteisio ar arferion da rhyngwladol i lywio ei dull gweithredu.
11. Mae hefyd yn bwysig cofio na all y sector cyhoeddus ar ei ben ei hun gyflawni'r nodau, fel maent wedi'u llunio ar hyn o bryd. Mae hyn yn anochel. (Ni fyddai eu hail-lunio yn nhermau cyflawniad gan y sector cyhoeddus ar ei ben ei hun yn realistig nac yn briodol, gan y byddai'n annhebygol o arwain at nodau sy'n cynrychioli gwelliant helaeth o ran llesiant economaidd, cymdeithasol ac amgylcheddol.) Yn gysylltiedig â hyn, mae'n debygol o fod yn anodd iawn gwahanu cyfraniad y sector cyhoeddus o gyfraniad sectorau eraill. Felly, yn gyffredinol, ni ellir defnyddio dangosyddion ond i olrhain cynnydd Cymru neu, mewn rhai achosion, rhannau o Gymru. At ei gilydd, ni fydd modd dibynnu ar ddangosyddion i asesu perfformiad cyrff cyhoeddus penodol o ran cyflawni nodau.
12. Yn y fan hon dylwn nodi nad oes angen bod â nodau er mwyn bod â dangosyddion defnyddiol. Gellir defnyddio dangosyddion i olrhain cynnydd tuag at ganlyniadau a ddymunir heb bennu'r fath ganlyniadau fel nodau (neu dargedau) penodol. Fel y dywedir uchod, mae pennu nodau penodol yn peri risg ymddygiad gwrthnysig, megis chwarae yn unol â'r rheolau heb gyflawni canlyniadau da, oherwydd y pwyslais penodol ar newidiadau penodol a'r disgwyliad i sefydliadau gael eu gweld yn cyfrannu at y newidiadau hynny. Gall dangosyddion ganiatáu olrhain cynnydd bras heb gymaint o risg ymddygiad gwrthnysig o'r fath.

**- Sefydlu swydd Comisiynydd Cenedlaethau'r Dyfodol ar gyfer Cymru, rôl, pwerau, cyfrifoldebau, llywodraethiant ac atebolrwydd y Comisiynydd**

13. Fe gefnogais y dull gweithredu o sefydlu Comisiynydd Cenedlaethau'r Dyfodol fel y nodwyd ym Mhapur Gwyn 2012. Roedd y dull gweithredu'n cynnig rôl oedd yn cyfuno rôl cynnull ar draws y gymdeithas sifil gyda chyfathrebu ac adeiladu ar ddealltwriaeth o'r hyn mae cymhwysu'r egwyddor datblygu cynaliadwy'n ei olygu'n ymarferol, comisiynu a manteisio ar ymchwil ac arferion da o Gymru a'r tu hwnt, darparu cymorth a chynghor, a darparu "adroddiad cyflwr y genedl". Byddai Comisiynydd Cenedlaethau'r Dyfodol a fyddai'n cyflawni'r rôl hon wedi darparu arbenigedd gwerthfawr ar ddatblygu cynaliadwy i gyrrff cyhoeddus fanteisio arno. Fel y'u

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<sup>2</sup> Er enghraifft, *Governance for sustainable development: the challenge of adapting form to function*, golygwyd gan William M. Lafferty, Edward Elgar, Cheltenham, y Deyrnas Unedig, 2004

nodwyd ym Mhapur Gwyn 2012, roedd rolau Comisiynydd Cenedlaethau'r Dyfodol a'r Archwilydd Cenedlaethol yn gydategol wrth gryfhau atebolrwydd am gyflawni'r ddyletswydd.

14. Fel y'i cynigir yn y Bil, rôl Comisiynydd Cenedlaethau'r Dyfodol fydd monitro ac asesu'r ffordd mae cyrff cyhoeddus yn cyflawni amcanion llesiant. Mae hyn yn codi dwy broblem: gallu cyfyngedig a gwrthdaro rhwng rolau. O ran gallu, os oes yn rhaid i'r Comisiynydd neilltuo adnoddau i waith monitro ac asesu cyflawniad, bydd gan y Comisiynydd lai o adnoddau i'w neilltuo i waith hybu gwybodaeth. Y cymhlethdod o ran gwrthdaro rolau yw bod cyfuno monitro gyda hybu gwybodaeth yn debygol o beri i gyrff cyhoeddus fod yn llai agored wrth geisio cyngor a thrafod problemau gyda'r Comisiynydd. Mae problem o'r fath yn amlwg o'n profiad ein hunain o ddatblygu deunyddiau ar gyfer ein Cyfnewidfa Arfer Da. Yn aml mae cyrff sy'n cael eu harchwilio'n amharod i drafod eu profiadau rhag ofn darparu deunydd a allai fod yn destun beirniadaeth gan y cyhoedd. Felly rwy'n pryderu y bydd gallu'r Comisiynydd i gyflawni rôl cynnull effeithiol, ac felly bod yn ganolbwynt ar gyfer gwybodaeth arbenigol ym maes datblygu cynaliadwy, yn cael ei beryglu gan bwysau gweithdrefnol gwaith monitro ac asesu.
15. Sut bynnag y caiff rôl y Comisiynydd ei diffinio, byddai'n well pe câi'r Comisiynydd ei benodi gan y Cynulliad Cenedlaethol, yn hytrach na Lywodraeth Cymru. Byddai cael ei benodi gan y Cynulliad Cenedlaethol yn rhoi mwy o annibyniaeth i'r Comisiynydd, a byddai'n cyfleu pwysigrwydd y rôl yn well.

- **Sefydlu Byrddau Gwasanaethau Cyhoeddus Statudol, asesiadau llesiant lleol a datblygu/gweithredu cynlluniau llesiant lleol**

16. Rwy'n croesawu darpariaeth y Bil mai 'bwriad lleol' byrddau gwasanaethau cyhoeddus yw "gwella llesiant economaidd, cymdeithasol ac amgylcheddol" eu hardaloedd yn unol â'r egwyddor datblygu cynaliadwy a bod byrddau gwasanaethau cyhoeddus i gyfrannu at ymgyrredd at y "bwriad cyffredin" (cymal 34). Fodd bynnag, mae'r darpariaethau sy'n ymwneud â Byrddau Gwasanaethau Cyhoeddus yn fanwl iawn, yn rhagnodol ac yn canolbwyntio ar broses. At hynny, ymddengys eu bod yn awgrymu pwyslais mawr ar agwedd gymdeithasol y bwriadau lleol a chyffredin, ar draul yr agweddau economaidd ac amgylcheddol. Mae Cymal 36(3) yn enghraifft dda o hyn. Wrth restru saith asesiad cymdeithasol penodol y mae'n rhaid eu hystyried wrth baratoi asesiadau o lesiant lleol, ymddengys fod y cymal yn groes i gydbwysedd y "bwriad cyffredin"—nid oes unrhyw ddarpariaeth yn ei gwneud yn ofynnol ystyried asesiadau sy'n uniongyrchol berthnasol i lesiant economaidd ac amgylcheddol. Dull gweithredu mwy cytbwys a galluogol fyddai ei gwneud yn ofynnol i'r bwrdd ystyried amrywiaeth o asesiadau economaidd, cymdeithasol ac amgylcheddol, mewn modd cytbwys ac integredig.

**Pa mor effeithiol y mae'r Bil yn mynd i'r afael â rhwymedigaethau rhyngwladol Cymru o ran datblygu cynaliadwy**

17. Yn ôl fy nealltwriaeth i o'r sefyllfa, a bod yn fanwl gywir, nid oes rhwymedigaethau ar Gymru o dan gytuniad neu brotocol rhyngwladol mewn perthynas â datblygu cynaliadwy. Mae rhwymedigaethau o'r fath ar Lywodraeth y Deyrnas Unedig, ac yn unol â hynny mae'n ofynnol i Lywodraeth Cymru a chyrrff cyhoeddus eraill yn y Deyrnas Unedig gydymffurfio â Deddf Newid yn yr Hinsawdd 2008, sef prif ffordd Llywodraeth y Deyrnas Unedig o gyflawni'r ymrwymadau y cytunwyd arnynt yn Uwchgynhadledd y Cenhedloedd Unedig ar yr Amgylchedd a Datblygu yn

1992. Er gwaethaf hyn, yn ymarferol ac yn fwy bras, mae'n amlwg bod gan Gymru ran i'w chwarae wrth gyflawni rhwymedigaethau rhyngwladol a dderbynnir yn fwy cyffredinol.

18. Mae'r Bil yn mynd rhywfaint o'r ffordd tuag at gyfraniad priodol. Mae hyn yn amlwg o'r ffaith fod diffiniad y Bil o ddatblygu cynaliadwy yr un peth yn ei hanfod â'r diffiniad a luniwyd gan Gomisiwn y Byd ar Ddatblygu Cynaliadwy. Fodd bynnag, mae diffyg pwyslais yn y bil ar fyw o fewn terfynau amgylcheddol yn tansilio'r cyfraniad hwn. Mae hyn oherwydd bod goblygiadau rhyngwladol sylweddol i ganlyniadau peidio â byw o fewn terfynau amgylcheddol.

### **Unrhyw rwystrau posibl rhag rhoi'r darpariaethau hyn ar waith ac a yw'r Bil yn eu hystyried**

19. Fel y nodais yn f'ymateb i Bapur Gwyn 2012, mae Mesur Llywodraeth Leol (Cymru) 2009 yn pennu cynaliadwyedd fel un o'r saith "agwedd ar wella", ac yn gosod dyletswyddau helaeth o ran cynllunio ac adrodd am welliant ar awdurdodau lleol yn nhermau'r saith egwyddor hynny. Mewn gwirionedd, mae Mesur 2009 yn gwneud datblygu cynaliadwy'n un o saith blaenoriaeth a allai gystadlu yn erbyn ei gilydd, sy'n anghyson â'r Bil, sy'n sefydlu datblygu cynaliadwy fel yr egwyddor graidd ar gyfer gweithrediadau cyrff cyhoeddus (gweler paragraff 408 o'r Memorandwm Esboniadol). Mae'r gwrthdaro hwn rhwng y ddwy ddeddf yn debygol o arwain at ddryswch mewn llywodraeth leol, ac felly bydd Mesur 2009 yn gweithredu fel rwystr rhag rhoi'r Bil ar waith.
20. Mae Mesur 2009 hefyd yn gosod dyletswyddau ar Archwilydd Cyffredinol Cymru i archwilio ac asesu cydymffurfiaeth awdurdodau â dyletswyddau cynllunio ac adrodd ar welliant. Yn f'ymateb i Bapur Gwyn 2012, awgrymais y byddai'n briodol diwygio Mesur 2009 er mwyn ei gwneud yn fwy cyson â datblygu cynaliadwy fel y brif egwyddor drefniadol. Ymysg pethau eraill, byddai lleihau'r gofynion helaeth o ran asesu a osodwyd ar yr Archwilydd Cyffredinol gan Fesur 2009 ac yn eu lle gosod dyletswydd i gyflawni archwiliadau o waith datblygu cynaliadwy (cynigiwyd dyletswydd o'r fath yn y Papur Gwyn) yn golygu y gallai'r Archwilydd Cyffredinol ganolbwyntio'n briodol ar gydweithredu rhwng awdurdodau, yn hytrach na chael ei gyfyngu i asesu awdurdodau unigol.
21. Fel y nodir uchod, cynigiodd Papur Gwyn 2012 "roi dyletswydd ar Archwilydd Cyffredinol Cymru, i gynnwys archwiliad o'r modd y mae sefydliadau wedi sefydlu egwyddorion datblygu cynaliadwy fel eu prif egwyddorion trefniadol mewn perthynas â'r ddyletswydd". Fodd bynnag, nid yw'r Bil yn gosod dyletswydd o'r fath ar yr Archwilydd Cyffredinol, er gwaethaf y ffaith fod dyletswydd o'r fath o fewn cymhwysedd deddfwriaethol y Cynulliad. Mae Paragraff 390 o'r Memorandwm Esboniadol yn dweud, yn wallus (yn ei hanfod) bod adrannau 17 a 61 o Ddeddf Archwilio Cyhoeddus (Cymru) 2004 yn golygu bod "dyletswydd ar ACC i ystyried a yw adnoddau wedi'u defnyddio'n effeithiol ac yn effeithlon gan y rhan fwyaf o'r cyrff sydd o fewn cwmpas y Bil wrth gyflawni'r dyletswyddau sydd ym Mil Llesiant Cenedlaethau'r Dyfodol (ymysg eu swyddogaethau eraill) – sef gosod amcanion llesiant a chymryd pob cam rhesymol i gyflawni'r amcanion mewn modd sy'n gyson â'r egwyddor datblygu cynaliadwy – bob blwyddyn fel rhan o'r gwaith o archwilio cyfrifon."
22. Mae'n ofid imi orfod dweud wrth y Pwyllgor nad yw hyn yn gywir. Mae'r dyletswyddau yn adrannau 17 a 61 o Ddeddf 2004 yn ei gwneud yn ofynnol adolygu'r trefniadau ar gyfer sicrhau gwerth am arian, nid rhoi ar brawf a yw'r defnydd o adnoddau ei hun wedi profi, neu heb brofi, yn effeithiol. At hynny, gan mai dim ond at gyrff llywodraeth leol mae adran 17 o Ddeddf 2004 yn berthnasol, ac mai dim ond cyrff y GIG mae adran 61 o Ddeddf 2004 yn berthnasol, byddai

Ymateb Archwilydd Cyffredinol Cymru i ymgynghoriad Pwyllgor yr Amgylchedd a Chynaliadwyedd ar egwyddorion cyffredinol Bil Llesiant Cenedlaethau'r Dyfodol (Cymru), Medi 2014

dibynnu ar yr adrannau hyn yn golygu na fyddai cyrff y llywodraeth ganolog (Llywodraeth Cymru a'r cyrff a noddir ganddi) yn cael eu hadolygu. Er bod adrannau 17 a 61 o Ddeddf 2004 yn ddefnyddiol, nid ydynt ynddynt eu hunain yn darparu ar gyfer y math o adolygiad y mae Llywodraeth Cymru'n barnu eu bod yn ei ddarparu yn ôl pob golwg.

23. Mae fy mhwerau presennol o ran astudiaethau, yn arbennig y rheiny o dan adran 41 o Ddeddf Archwilio Cyhoeddus (Cymru) 2004 ac adran 145A o Ddeddf Llywodraeth Cymru 1998, yn caniatáu (ond o bosibl yn achlysurol yn unig) darparu'r math o adolygiad sydd gan Lywodraeth Cymru mewn golwg. Rwy'n dweud "o bosibl yn achlysurol yn unig" oherwydd bod astudiaethau o'r fath ar fy nisgresiwn. Er y gallwn efallai barnu bod adolygiadau o gynnydd o ran datblygu cynaliadwy'n bwysig, mae'n bosibl na fydd f'olynydd o'r un farn, a, beth bynnag, byddai angen i adolygiad o'r fath gael ei ystyried yn erbyn meysydd pwnc astudiaethau eraill. At hynny, wrth benderfynu pa astudiaethau i'w cyflawni, rhaid imi hefyd ystyried barn y Pwyllgor Cyfrifon Cyhoeddus (neu ar gyfer astudiaethau llywodraeth leol, cymdeithasau awdurdodau), ac mae'n gwbl bosibl y byddai astudiaethau eraill yn cael mwy o gefnogaeth. Gan nad yw'r pŵer gan Lywodraeth Cymru i fynnu y caiff astudiaethau penodol eu cyflawni, os mai bwriad polisi Llywodraeth Cymru yw y dylid cyflawni astudiaethau o'r fath yn y dyfodol, mewn gwirionedd, yna dylid gwneud darpariaeth benodol ar gyfer hyn yn y Bil.
24. Mae diffyg y fath ddarpariaeth benodol ar gyfer adolygu priodol yn golygu nad yw'r trefniadau adolygu a chraffu y mae eu hangen i helpu i sicrhau rhoi'r darpariaethau ar waith yn llwyddiannus mor gryf ag y gallent fod. Mae gadael hon allan felly yn rhwystr arall rhag rhoi'r darpariaethau ar waith yn llwyddiannus.
25. Hoffwn hefyd nodi bod y cyrff cyhoeddus penodedig yn cynnwys y rhan fwyaf o'r cyrff cyhoeddus yng Nghymru y byddid yn disgwyl iddynt chwarae rhan allweddol mewn perthynas â'r Bil. Felly, ymddengys fod gadael allan unrhyw angen i roi sylw i'r "bwriad cyffredin" neu'r egwyddor datblygu cynaliadwy ar ran cyrff adolygu, megis Estyn a minnau, yn wendid posibl. Byddai darparu am i'r bwriad cyffredinol a'r egwyddor datblygu cynaliadwy fod yn berthnasol i gyrff adolygu yn helpu i sicrhau bod swyddogaethau adolygu'n ystyried yn ddyledus a yw cyrff eraill yn cyflawni eu swyddogaethau'n unol â'r Bil.

#### **A oes unrhyw ganlyniadau anfwriadol yn deillio o'r Bil**

26. Gall y rhwystrau a nodir o dan y cwestiwn blaenorol fod yn ganlyniadau anfwriadol i'r Bil fel y'i drafftwyd.

#### **Goblygiadau ariannol y Bil (fel y'u nodir yn Rhan 2 o'r Memorandwm Esboniadol a'r Asesiad Effaith Rheoleiddiol, sy'n amcangyfrif y costau a'r buddion o roi'r Bil ar waith)**

27. Rwy'n cydnabod, fel y dywedir ym mharagraff 326 o'r Memorandwm Esboniadol, nad yw'n bosibl mesur costau a buddion y gweithgareddau a'r newidiadau sy'n deillio o amcanion cyrff cyhoeddus, nad ydynt wedi'u pennu eto. Fodd bynnag, rwyf yn barnu ei bod yn briodol i'r Memorandwm Esboniadol geisio nodi cost ddangosol ar gyfer y gweithgareddau gweinyddol fydd yn deillio o'r Bil, megis pennu amcanion, adrodd yn flynyddol ar amcanion, gwaith archwilio ychwanegol canlyniadol, gwaith Comisiynydd Cenedlaethau'r Dyfodol a gwaith Byrddau Gwasanaethau Cyhoeddus.



28. Fodd bynnag, ymddengys fod y dangosiadau costau ar gyfer y fath drefniadau gweinyddol wedi cael eu tanamcangyfrif rywfaint, am y rhesymau canlynol:
- Ymddengys nad ystyrir gwaith y bydd ei angen er mwyn newid o'r prosesau presennol ar gyfer pennu ac adrodd ar amcanion corfforaethol i bennu ac adrodd ar amcanion i gydymffurfio â'r Bil. (Er enghraifft, mae costau awdurdodau lleol ar gyfer amcanion corfforaethol yn 2015-16 yn nhabl 17 ar dudalen 91 (h.y. ar ôl i'r Bil ddod i rym) yr un peth â'r costau hynny yn nhabl 14 (h.y. heb y Bil).) Man lleiaf, bydd angen i staff perthnasol cyrff cyhoeddus gyflawni rhywfaint o waith ychwanegol yn y ddwy flynedd gyntaf er mwyn deall gofynion newydd y Bil o ran pennu ac adrodd ar amcanion. At hynny, o gofio'r gwrthdaro rhwng y saith agwedd gwella ym Mesur Llywodraeth Leol (Cymru) 2009 a'r egwyddor datblygu cynaliadwy yn y Bil, fel y nodir ym mharagraff 19 uchod, bydd yn rhaid i staff awdurdodau dreulio rhywfaint o amser yn gweithio trwy'r ffordd y gellir cysoni'r gofynion gwahanol hyn (os, yn wir, y gellir gwneud hynny).
  - Yn yr Asesiad Effaith Rheoleiddiol trwyddi draw, lle mae'r Llywodraeth wedi ceisio cyfrifo costau ar sail amser staff a'u cyflogau (er enghraifft, tabl 3 ar dudalen 75), ymddengys ei bod wedi defnyddio costau cyflogau gros ond nad yw wedi cynnwys argostau anochel, megis Yswiriant Gwladol a chyfraniadau pensiwn y cyflogwr. Os yw hyn yn wir, yna mae'r fath ddangosyddion cost yn rhy isel o ryw 30 y cant.
  - Ymddengys fod y cyfraddau cyflogau awdurdodau lleol yn rhy isel mewn llawer o achosion. Er enghraifft, nodir mai £75,000 yw cyflog blynyddol cyfarwyddwr i awdurdod lleol mawr yn nhabl 3 ar dudalen 75. Fodd bynnag, mae'r datganiad ar bolisiau tâl 2014-15 ar gyfer Sir a Dinas Caerdydd yn dweud mai £120,000 yw cyflog cyfarwyddwr o 1 Ebrill 2013, ac mae'r datganiad ar gyfer Dinas a Sir Abertawe yn nodi graddfa o £95,000 i £110,000 o 1 Ebrill 2014 ymlaen. (Mae'r Memorandwm yn dweud bod tabl 3 hefyd yn berthnasol i awdurdod Rhondda Cynon Taf, ond nid oes datganiad tebyg ar bolisiau tâl ar gael hwnnw.)
  - Ymddengys fod maint y gwaith y mae rhai o'r prosesau gwaith yn galw amdano wedi cael ei danamcangyfrif. Er enghraifft, mae paragraff 464 o'r Memorandwm Esboniadol yn dweud bod Byrddau Gwasanaethau Lleol yn cyfarfod ar gyfartaledd chwe gwaith y flwyddyn am ddwy awr, ond nid ystyrir unrhyw amser ar gyfer paratoi at gyfarfodydd na theithio. Ymddengys fod hyd cyfartalog cyfarfodydd, sef dwy awr, braidd yn fyr hefyd. Er nad wyf wedi gwneud adolygiad o hyd y fath gyfarfodydd, rwy'n casglu o brofiad cyffredinol eu bod yn cymryd rhyw bump neu chwe awr fel arfer.
  - Fel y dywedir yn sylwadau Cadeirydd Swyddfa Archwilio Cymru i'r Pwyllgor, nid yw'r amcangyfrif costau a geir ar gyfer yr Archwilydd Cyffredinol (ar gyfer gwaith ym mhob sector, nid yn unig llywodraeth leol) yn y Memorandwm Esboniadol yn briodol ac yn ôl pob tebyg yn rhy isel.
  - Fel y dywedir hefyd yn sylwadau Cadeirydd Swyddfa Archwilio Cymru (ac uchod), mae'n bosibl y bydd yr anghysonder rhwng disgwyliadau Llywodraeth Cymru ynghylch y math o adolygiad y gellir ei ddarparu o fewn swyddogaethau presennol yr Archwilydd Cyffredinol a dehongliadau eraill o'r swyddogaethau hynny'n achosi dadleuon ynghylch ffioedd ac adnoddau eraill. Bydd y dadleuon hynny ynddynt eu hunain yn defnyddio adnoddau.

29. Dylwn egluro bod fy sylwadau wedi'u seilio ar ddarllen y Memorandwm Esboniadol yn unig, yn hytrach nag archwiliad o'r papurau gwaith sylfaenol. (Byddai archwiliad o'r fath yn bosibl, ond byddai angen ei drefnu, gan gynnwys yn nhermau barn y Pwyllgor Cyfrifon Cyhoeddus ar waith o'r fath ac, mewn termau ymarferol, trefniadau mynediad gweinyddol gyda Llywodraeth Cymru yn ystod y broses ddeddfwriaethol.)

**Priodoldeb y pwerau yn y Bil i Weinidogion Cymru wneud is-ddeddfwriaeth (fel y nodir ym Mhennod 5 o Ran 1 o'r Memorandwm Esboniadol, sy'n cynnwys tabl sy'n rhoi crynodeb o bwerau Gweinidogion Cymru i wneud is-ddeddfwriaeth).**

30. Yn gyffredinol, mae'r pwerau i wneud is-ddeddfwriaeth yn ymddangos yn briodol yng nghydestun y Bil. Fodd bynnag, o gofio pwysigrwydd Adroddiad Cenedlaethau'r Dyfodol (cymal 21), ymddengys y byddai'n fwy priodol i'r ddarpariaeth ar gyfer diwygio'r diffiniad o'r cyfnod adrodd wneud gweithdrefn gadarnhaol yn ofynnol, fel bod newidiadau o'r fath yn cael eu cymeradwyo mewn Cyfarfod Llawn.

## **Atodiad: Sylwadau eraill Archwilydd Cyffredinol Cymru ar Fil Llesiant Cenedlaethau'r Dyfodol (Cymru) a'i Femorandwm Esboniadol**

### **Y Bil**

#### **Cymalau 13 ac 14, Adroddiadau blynyddol gan Weinidogion Cymru ac adroddiadau blynyddol gan gyrff cyhoeddus eraill**

1. Nid oes unrhyw ddarpariaeth yn y Bil ar gyfer unrhyw adolygu allanol o adroddiadau blynyddol er mwyn gwirio eu cywirdeb. Heb adolygu o'r fath, mae'n bosibl y bydd cyrff yn cyhoeddi adroddiadau blynyddol sy'n camarwain y cyhoedd ac eraill. Ymddengys fod y fath waith adolygu y tu allan i ddyletswyddau Comisiynydd Cenedlaethau'r Dyfodol, gan gynnwys y ddyletswydd o dan gymal 17(b) i "fonitro ac asesu cyflawniad yr amcanion llesiant a osodir gan gyrff cyhoeddus". Mae'r fath waith adolygu hefyd y tu allan i ddyletswyddau presennol yr Archwilydd Cyffredinol. Byddai'n agored i'r Archwilydd Cyffredinol gyflawni adolygiadau o adroddiadau blynyddol o dan bwerau presennol yr Archwilydd Cyffredinol dros astudiaethau, ond, o gofio'r galwadau sy'n cystadlu â'i gilydd am adnoddau astudiaethau, ni fyddai digon o flaenoriaeth gymharol i'r fath waith, o angenrheidrwydd, iddo gael ei ddewis i'w gyflawni.

#### **Cymal 23, Cydweithio**

2. Mae Cymal 23 yn darparu darpariaethau cydweithio sy'n gymwys os yw'r Comisiynydd yn bwriadu darparu cyngor neu gymorth sy'n ymwneud â mater sy'n debyg i bwnc adolygiad gan y Comisiynydd Plant, y Comisiynydd Pobl Hŷn neu Gomisiynydd y Gymraeg. Efallai y byddai'n briodol gwneud darpariaeth debyg mewn perthynas â materion sy'n destun gwaith adolygu gan yr Archwilydd Cyffredinol.

#### **Cymalau 33(2)(c), 35(6)(c), 37(8)(c), 43(6)(c) a 44(5)(c)**

3. Mae'r darpariaethau hyn yn galw am i gruglwyth o ddogfennau yn ymwneud â byrddau gwasanaethau lleol gael eu hanfon at yr Archwilydd Cyffredinol:
  - a) Adroddiadau ac argymhellion pwyllgorau trosolwg a chraffu awdurdodau lleol mewn perthynas â byrddau gwasanaethau lleol;
  - b) Asesiadau llesiant lleol byrddau gwasanaethau lleol;
  - c) Cynlluniau llesiant lleol byrddau gwasanaethau lleol;
  - d) Cynlluniau llesiant lleol diwygiedig byrddau gwasanaethau lleol;
  - e) Adroddiadau cynnydd blynyddol byrddau gwasanaethau lleol.
4. Er y bydd y deunydd hwn efallai'n wybodaeth gyd-destunol ddefnyddiol ar gyfer astudiaethau a gwaith arall yr Archwilydd Cyffredinol, gan nad oes gan yr Archwilydd Cyffredinol unrhyw swyddogaethau mewn perthynas â byrddau gwasanaethau lleol fel y

cyfryw, nid yw'n glir pa ddibenion penodol mae'r gofynion hyn i anfon dogfennau yn eu hateb, na beth y disgwyliad i'r Archwilydd Cyffredinol ei wneud â hwy. Mae diffyg darpariaeth yn ymwneud â pha swyddogaethau y dylai'r Archwilydd Cyffredinol eu cyflawni mewn perthynas â'r dogfennau'n achosi perygl bwlch rhwng disgwyliadau Llywodraeth Cymru (ac efallai eraill) a'r hyn mae'r Archwilydd Cyffredinol yn ei ddarparu.

#### **Cymalau 37 a 44, cyhoeddi cynlluniau llesiant ac adroddiadau cynnydd blynyddol**

5. Mae Cymal 37 yn ei gwneud yn ofynnol i fyrddau gwasanaethau cyhoeddus gyhoeddi ei eu cynlluniau llesiant cyntaf heb fod yn hwyrach nag un flwyddyn ar ôl yr etholiad arferol nesaf (ac mae cymal 43 yn caniatáu i gynlluniau llesiant gael eu diwygio ar unrhyw adeg). Mae Cymal 44 yn ei gwneud yn ofynnol i fyrddau gwasanaethau cyhoeddus gyhoeddi adroddiadau cynnydd blynyddol heb fod yn hwyrach nag un flwyddyn ar ôl cyhoeddi eu cynlluniau llesiant ac wedi hynny heb fod yn hwyrach nag un flwyddyn ar ôl cyhoeddi'r adroddiad blaenorol. O ganlyniad, bydd cynlluniau llesiant ac adroddiadau cynnydd ar gyfer gwahanol fyrddau gwasanaethau cyhoeddus yn ymdrin â gwahanol gyfnodau o 12 mis, fydd yn llesteirio neu atal cymhariaeth deg rhwng byrddau gwasanaethau cyhoeddus. Mae perygl na fydd cynlluniau llesiant ac adroddiadau cynnydd nad ydynt yn cyd-fynd ag adrodd fesul blynyddyn ariannol yn cael eu hystyried yn rhan o waith adrodd busnes prif ffrwd.

#### **Paragraff 5(3) o Atodlen 2 (darpariaeth pensiynau Comisiynydd Cenedlaethau'r Dyfodol)**

6. Ymddengys fod Paragraff 5(3)(b) o Atodlen 2 yn darparu am i Weinidogion Cymru dalu cyfraniadau pensiwn mewn perthynas â chyn-Gomisiynwyr (yn lle Comisiynwyr presennol), neu fod darpariaeth am dalu cyfraniadau pensiwn mewn perthynas â Chomisiynwyr presennol wedi cael ei gadael allan.

#### **Paragraff 9 o Atodlen 2, staff Comisiynydd Cenedlaethau'r Dyfodol**

7. Mae Paragraff 9(5) yn ei gwneud yn ofynnol i'r Comisiynydd gael cymeradwyaeth Gweinidogion Cymru am nifer, telerau ac amodau, a thâl staff. Byddai'r Comisiynydd yn fwy annibynnol pe bai ei adnoddau'n destun trosolwg uniongyrchol gan y Cynulliad Cenedlaethol yn lle hynny.

#### **Paragraffau 11 ac 16 o Atodlen 2, gweithdrefn gwynion ac adroddiad blynyddol Comisiynydd Cenedlaethau'r Dyfodol**

8. Ymddengys braidd yn ormodol i'r Bil ragnodi bod yn rhaid i'r Comisiynydd sefydlu gweithdrefnau cwynion (paragraff 11). Ymddengys yn rhy fiwrocraidd ei gwneud yn ofynnol i'r Comisiynydd gynnwys crynodeb o gwynion yn ei adroddiad blynyddol (paragraff 16).

## Y Memorandwm Esboniadol

9. Paragraff 316 – Mae hwn yn cyfeirio at adroddiadau'r Archwilydd Cyffredinol er budd y cyhoedd mewn perthynas â Chaerffili, Sir Gâr a Sir Penfro. Dylid nodi mai gan yr archwilydd penodedig yr oedd yr adroddiadau hyn, nid yr Archwilydd Cyffredinol.



WALES AUDIT OFFICE  
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Cyfeirnod	IG/2014/015
Dyddiad	4 Medi 2014
Tudalen	1 o 4

Annwyl Gadeirydd

### **Bil Llesiant Cenedlaethau'r Dyfodol (Cymru): Ymgynghoriad ar Egwyddorion Cyffredinol**

1. Diolch am y gwahoddiad i gyflwyno tystiolaeth i'r Pwyllgor ar egwyddorion cyffredinol Bil Llesiant Cenedlaethau'r Dyfodol (Cymru). Mae'n ddrwg gennyf na allaf, oherwydd ymrwymadau eraill, ddod i gyfarfod y Pwyllgor i gyflwyno tystiolaeth ar 1 Hydref. Rwy'n gobeithio y bydd y sylwadau ysgrifenedig hyn, ynghyd â thystiolaeth yr Archwilydd Cyffredinol, yn ddigon i ddarparu gwybodaeth ar gyfer eich trafodaethau.
2. Byddwch yn gwybod y sefydlwyd Swyddfa Archwilio Cymru fel bwrdd statudol a'i bod, ers 1 Ebrill 2014, yn gyfrifol am gyflogi staff, caffael gwasanaethau a darparu adnoddau eraill i alluogi'r Archwilydd Cyffredinol i arfer ei swyddogaethau. Mae hefyd yn monitro ac yn cynghori'r Archwilydd Cyffredinol.
3. O gofio cyfrifoldeb y Bwrdd am adnoddau, ymddengys ei bod yn briodol inni ymdrin yn benodol â'r chweched cwestiwn (ynghylch goblygiadau ariannol y Bil) a nodir yn eich gwahoddiad, er bod cysylltiadau, wrth gwrs, â'ch cwestiynau eraill. Rwyf wedi trafod eich cwestiynau eraill gyda'r Archwilydd Cyffredinol, ac rydym yn cytuno ei bod yn briodol iddo ymateb iddynt, gan eu bod yn ymwneud â chynnal archwiliadau sy'n rhan o'i faes.

*6. Goblygiadau ariannol y Bil (fel y'u nodir yn Rhan 2 o'r Memorandwm Esboniadol a'r Aseiad Effaith Rheoleiddiol, sy'n amcangyfrif y costau a'r buddion o roi'r Bil ar waith)*

4. Mae'r Bil yn arloesol ac mae iddo oblygiadau helaeth i'r cyrff cyhoeddus sydd o fewn cwrmpas y dyletswyddau y mae'n eu gosod. Er bod yr arloesedd hwn yn rhoi

cyfle i ffocysu gweinyddiaeth gyhoeddus yn briodol, mae'n gwneud y dasg o nodi goblygiadau ariannol y Bil yn anodd. Mae hyn yn amlwg o baragraff 327 o'r Memorandwm Esboniadol, a nododd fod PwC wedi cael ei gomisiynu (gan Lywodraeth Cymru, yn ôl a ddeallwn) i asesu effaith weinyddol y ddeddfwriaeth ar gyrff cyhoeddus ond "nid oedd yn gallu darparu asesiad o faint y costau sy'n gysylltiedig".

5. Gan nad oes gan y Bwrdd ei hun swyddogaethau archwilio cyhoeddus, nid yw'n briodol inni geisio dadansoddi gydag unrhyw fanylder costiaidau'r Llywodraeth ar draws y sector cyhoeddus. Fodd bynnag, o gofio ein cyfrifoldeb am ddarparu adnoddau i alluogi'r Archwilydd Cyffredinol i gyflawni ei swyddogaethau, mae'n briodol inni gyflwyno sylwadau ar gostiaidau'r Llywodraeth fel y maent yn ymwneud â Swyddfa Archwilio Cymru.
6. Mae'n destun pryder inni fod y Memorandwm Esboniadol yn cynnwys cost flynyddol barhaus o £130,000 ar gyfer gwaith adolygu archwiliadau. Mae'r ffigur hwn wedi'i briodoli i amcangyfrif o incwm a threuliau Swyddfa Archwilio Cymru ar gyfer 2014-15, sy'n adlewyrchu rhai costiaidau petrus cynnar a nodwyd wrth ymateb i'r Papur Gwyn, *Cymru Gynaliadwy: Dewis Gwell ar gyfer Dyfodol Gwell* (2012). Nododd ein hamcangyfrif ar gyfer 2014-15, gan nad oedd y Bil wedi cael ei gyhoeddi eto, ei bod yn anodd iawn asesu'n briodol lefel y gweithredu angenrheidiol a'r gost gysylltiedig. ("Meysydd lle ceir Ansicrwydd" oedd y pennawd ar y deunydd hwn, hefyd.)
7. Dylem bwysleisio bod y ffigur o £130,000 wedi cael ei lunio mewn perthynas â'r polisi a nodwyd ym Mhapur Gwyn 2012, oedd yn cynnig "*...rhoi dyletswydd ar Archwilydd Cyffredinol Cymru, i gynnwys archwiliad o'r modd y mae sefydliadau wedi sefydlu egwyddorion datblygu cynaliadwy fel eu prif egwyddorion trefniadol...*".
8. Roedd cynnig polisi'r Papur Gwyn wrth gwrs yn dra gwahanol i'r hyn a nodir bellach yn y Memorandwm Esboniadol (gan adlewyrchu darpariaethau'r Bil), a fynegir ym mharagraff 390 fel a ganlyn:

*"Mae hyn yn golygu bod dyletswydd ar ACC i ystyried a yw adnoddau wedi'u defnyddio'n effeithiol ac yn effeithlon gan y rhan fwyaf o'r cyrff sydd o fewn cwmpas y Bil wrth gyflawni'r dyletswyddau sydd ym Mil Llesiant Cenedlaethau'r Dyfodol (ymysg eu swyddogaethau eraill) - sef gosod amcanion llesiant a chymryd pob cam rhesymol i gyflawni'r amcanion mewn modd sy'n gyson â'r egwyddor datblygu cynaliadwy - bob blwyddyn fel rhan o'r gwaith o archwilio cyfrifon".*


(Hoffem hefyd bwysleisio bod y cyngor cyfreithiol a gawsom yn awgrymu nad yw'r esboniad hwn ym mharagraff 390 yn gwbl gywir).

9. Yn wir, deallwn na chafodd Llywodraeth Cymru gadarnhad a oedd defnyddio'r ffigur o £130,000 yn briodol cyn ei gynnwys yn y Memorandwm Esboniadol. Fe wnaeth Llywodraeth Cymru gais am wybodaeth am gostau gwaith archwilio o dan y Bil arfaethedig, i lywio ei Asesiad Effaith Rheoleiddiol. Er mwyn darparu'r fath wybodaeth, cynhaliodd staff Swyddfa Archwilio Cymru nifer o gyfarfodydd a buont yn cyfnewid gohebiaeth, gan gynnwys er mwyn gofyn am ddarpariaethau perthnasol y Bil. Oherwydd na ddarparodd Llywodraeth Cymru'r darpariaethau perthnasol, ni fu modd i'n staff roi ond ystod o amcangyfrifon cost dangosol, a oedd o angenrheidrwydd yn cynnwys y cafeat y gallent newid ar ôl i ddarpariaethau'r Bil gael eu cadarnhau. Roedd yr amcangyfrifon hyn yn amrywio o ddull minimal (rhestr wirio bron) gyda chostau blynyddol o ryw £225,000 hyd at archwiliad proffesiynol gweddol drylwyr gyda chostau blynyddol o ryw £870,000.
10. Yn ein barn ni, er bod angen gwneud mwy o waith ar ganfod sut y bydd y Bil fel y mae ar hyn o bryd yn rhyngweithio gyda swyddogaethau archwilio sy'n bodoli eisoes, byddai cost y Bil yn nhermau swyddogaethau archwilio'n fwy tebygol o fod o fewn yr ystod a nodir uchod yn hytrach na'r lefel a nodir yn y Memorandwm Esboniadol.
11. Wedi dweud hynny, dylwn hefyd nodi ein bod yn barnu y gellid diwygio'r Bil fel bod y costau yn nhermau swyddogaethau archwilio'n cael eu lleihau. Er enghraifft, fel yr awgrymwyd yn ymateb yr Archwilydd Cyffredinol i Bapur Gwyn 2012, gellid defnyddio'r Bil fel cyfle i ddiwygio Mesur Llywodraeth Leol (Cymru) 2009, ac felly, yn ôl pob tebyg, lleihau costau adolygu llywodraeth leol. Yn benodol, gellid lleihau'r gofynion helaeth i'r Archwilydd Cyffredinol archwilio cynlluniau gwella awdurdodau a gwneud asesiadau o gydymffurfiaeth awdurdodau â dyletswyddau gwella Mesur 2009, pe bai yna ddyletswydd i gynnal archwiliadau datblygu cynaliadwy o dan y Bil fel yr awgrymwyd ym Mhapur Gwyn 2012.
12. Yn yr un modd, mae'n anffodus bod y ffocws ar egwyddorion ym Mhapur Gwyn 2012 wedi cael ei wanhau wrth gynnwys nodau a darparu ar gyfer amcanion yn y Bil. Mae nodau ac amcanion yn creu cymhlethdod ac amwysedd, a fydd yn cynyddu maint (ac felly cost) y gwaith y bydd angen ei gyflawni.
13. Mae hefyd yn anffodus nad yw'r Bil yn gosod unrhyw ddyletswydd ar yr Archwilydd Cyffredinol i archwilio'r modd y mae sefydliadau wedi sefydlu egwyddorion datblygu cynaliadwy fel eu prif egwyddorion trefniadol. Yn lle hynny, bydd dibynnu ar ddyletswyddau sy'n bodoli eisoes, sy'n golygu bod yn rhaid i'r Archwilydd Cyffredinol fod yn fodlon bod cyrff wedi gwneud trefniadau priodol ar gyfer sicrhau darbodaeth, effeithlonrwydd ac effeithiolrwydd (adrannau 17 a 61 o Ddeddf Archwilio Cyhoeddus (Cymru) 2004), yn arwain at ddryswch a dadleuon ynghylch priodoldeb maint y gwaith i fod yn fodlon yn y fath fodd.



14. Yn wir, nid yw'r ddyletswydd i fod yn fodlon bod trefniadau priodol wedi cael eu gwneud yr un peth â datganiad y Llywodraeth bod yna "ddyletswydd... i ystyried a yw adnoddau wedi'u defnyddio'n effeithiol ac yn effeithlon ... wrth gyflawni'r dyletswyddau sydd ym Mil Llesiant Cenedlaethau'r Dyfodol ... sef gosod amcanion llesiant a chymryd pob cam rhesymol i gyflawni'r amcanion." Mae'n bosibl y bydd hyn yn ei dro'n arwain at ddadleuon ynghylch lefelau'r ffioedd y bydd angen i Swyddfa Archwilio Cymru eu codi, a fydd ynddynt eu hunain yn defnyddio adnoddau ychwanegol.
15. I grynhoi, rydym yn barnu bod y Bil yn rhoi cyfle i ffocysu gweinyddiaeth gyhoeddus yn briodol yng Nghymru. Fodd bynnag, rydym yn barnu bod y costau swyddogaethau archwilio a nodir yn y Memorandwm Esboniadol yn amhriodol a chamarweiniol o isel. Rydym hefyd yn barnu bod y Bil wedi methu cyfleoedd i leihau neu osgoi costau trwy osod dyletswydd benodol ar yr Archwilydd Cyffredinol i archwilio'r modd y caiff datblygu cynaliadwy ei sefydlu fel prif egwyddor drefniadol.
16. Rwy'n anfon copi o'r llythyr hwn at Jocelyn Davies o gofio cyfrifoldeb y Pwyllgor Cyllid am graffu ar amcangyfrif o incwm a threuliau Swyddfa Archwilio Cymru.

Yn gywir



**Isobel Garner**  
Cadeirydd, Swyddfa Archwilio Cymru



to see a duty upon public bodies to pursue SD as their primary purpose. This is a key weakness of the Bill in our view and therefore the Bill fails to meet the WG stated aim of embedding SD *in all actions*.

6. Another way in which the Bill fails to embed SD, in our view, is in its treatment of the definition of SD. First, it turns SD into a principle (not the way it is conceived by Brundtland) and second it limits its scope by inserting the phrase ‘seeking to ensure’. As a consequence, SD is defined in a far more qualified and less rigorous way than in the current SD Scheme, One Wales One Planet (OWOP) -8. These failures are compounded, in our view, by the overarching failure, mentioned earlier of not encapsulating the concepts of ‘environmental limits and concern for global impacts.
7. In sum, we consider that this Bill appears to embed some good governance principles but fails to embed SD itself into the exercise of the functions of public servants. It is further weakened by the complexity of its provisions, leading to gaps in coherence and lack of clarity.
8. Despite these weaknesses, we recognise the vital importance of this opportunity in setting us on a more sustainable path. Therefore, it is imperative that we work to strengthen this Bill through effective amendments.

**A. B Is the Bill ground breaking and ‘leading from the front?’**

9. WWF commissioned academic research from Professor Andrea Ross to directly consider this issue. She compared the Bill with legislation from several other countries. Her conclusion is that despite some innovative aspects, which we acknowledge, the Bill falls short of being a ground-breaking Bill.
10. Legislating for well-being goals sends symbolic and ambitious signals. However, the goals will only be effective if collectively they produce a truly sustainable Wales.
11. The requirement for public bodies to take an integrated approach, by legislating for all three aspects of SD, and as part of the general functions of public bodies, is innovative, but that innovation will be lost if some of the gaps in coherence are not addressed.
12. The terminology of the Bill is unfortunately far weaker than some of the clear, symbolic and ambitious terminology that is used in the existing One Wales One Planet scheme. As referred to above, we are greatly concerned that the Bill fails to deliver upon the important concepts such as ‘living within environmental limits’; ‘reducing Wales’ negative international impacts’, and the reduction of ecological footprint to a level of a ‘fair share of the earth’s resources’. As mentioned, these are significant flaws.
13. Further, by reducing the scope of the Bill to the governance systems it is difficult to argue that this Bill is truly exemplar, particularly when more innovative, symbolic and powerful examples exist elsewhere that are not limited to governance alone (Sweden, Minnesota, Quebec, Australia).

14. **Action: WWF recommends a suite of amendments to the Bill (the Purpose, Goals, the SD definition and/or section 8 (2) Principles, along with some other procedural changes) to deal with these shortcomings. These will be detailed later and will address the scope of the Bill, embedding environmental limits and strengthening the substantive duty, so that it is fit for purpose**

## **2. The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the following areas –**

15. WWF considers that the need for new legislation was well established by WG in 2010.
16. The Wales Audit office identified failings by government to embed SD in its decision making using the Government of Wales Act approach of making a scheme with indicators and annual reports.
17. Key failures identified by the report<sup>3</sup> were:
  - SD was seen as one of many competing objectives, not a means of managing competing priorities
  - there was a lack of clarity on what was meant by SD;
  - there were areas where SD had not been considered e.g. resource allocation, financial and business planning
18. WWF agreed with WG that there was a need for legislation to address these serious shortcomings. It was anticipated that the WG would bring forward legislation that would overcome some of the key barriers to embedding SD within government decision making. These were identified as:
  - A political focus on the short term (rather than long term taking into account future generations)
  - Embedding SD as an integrated approach to strategic, financial and operational planning.<sup>4</sup>
  - The need to go beyond business practices and create a culture where SD is embedded in all key decisions.<sup>5</sup>

### **19. So a crucial question is whether the Bill addresses these issues, improves on the existing system and changes business as usual approaches.**

The short answer is – partially. It does improve the weight on the long term and tries to be clear on integration however there are gaps in this provision. The major failure is in the scope of the Bill, which does not cover financial and operational matters.

### **2a The “common aim” and “sustainable development principle” established in the Bill and the “public bodies” specified;**

20. WWF welcomes the fact that the Bill is structured to provide a clear purpose and aim to be pursued by all public bodies.
21. However we are concerned that the scope of the common aim is limited to ensuring only ‘governance arrangements’ are put in place. Therefore, we do not believe this addresses the WAO’s concern on areas where SD was not embedded nor does it meet WG intention.

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<sup>3</sup> Colman, J. Sustainable development and business decision making in the Welsh Assembly Government. 2010. Cardiff. Wales Audit Office.

<sup>4</sup> WAO recommendation , ibid

<sup>5</sup> WAO recommendation, ibid

22. The WG's ambition is to place SD as a central organising principle of governance. We consider that this requires not only the right governance structures are put in place by public bodies in terms of their systems and processes, including financial and planning, **but also clear obligations placed upon public bodies to achieve the common aim in the exercise of all of their functions.**

23. WWF is of the view that due to the above drafting the impact of the Bill is likely to remain largely neutral in its effect on embedding SD as a central organising principle.

24. Further, WWF is concerned that by including a purpose, aim and principles, together with the delivery of a set of objectives and a duty to maximise contribution, the architecture is unduly complicated, contributing to a lack of coherence to the Bill.

**25. WWF suggests amendments to section 1 to extend the scope to delivery and to section 3 to remove 'seeking to ensure'. A suite of further amendments will be needed to fill the gaps in the overall coherence of the architecture of the Bill.**

**2b The approach to improving well-being, including setting of well-being goals, establishment of objectives by public bodies and the duties imposed on public bodies;**

26. WWF agrees that there is a need for legislation that contains both substantive and procedural duties in order for the implementation of the Bill's provisions to be effective. We consider that a Bill that provides for integration of SD and is coherent would prove truly ground-breaking.

#### **Well-being Goals: section 6**

27. WWF applauds the attempt to provide goals for the public sector which seek to achieve sustainable development in Wales. This structure also partially follows the approach from the UN process in sustainable development goals, which is welcome.

28. However we see three key weaknesses with the Goals – first, the goals do not include provision for 'living within environmental limits'; second, they fail to acknowledge Wales' international impacts ( see Q3); finally, they lack any sense of the scale of change being envisaged.

#### **Living within environmental limits and international impacts**

29. OWOP explicitly refers to both protection of the Earth's life support systems and environmental limits as part of its vision. We consider that living within environmental limits is an inherent aspect of SD as enunciated in the 1987 Brundtland report. This stated that

*"Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts:*

- *the concept of **needs**, in particular the essential needs of the world's poor, to which overriding priority should be given; and*
- *the idea of **limitations** imposed by the state of technology and social organization on the environment's ability to meet present and future needs."*

Brundtland further stated that:

- *sustainable development must not endanger the natural systems that support life on Earth: the atmosphere, the waters, the soils, and the living beings.*
- *But ultimate limits there are, and sustainability requires that long before these are reached, the world must ensure equitable access to the constrained resource and reorient technological efforts to relieve the pressure.”*

30. OWOP explicitly refers to both protection of the Earth’s life support systems and environmental limits as part of its vision and referred to the need for equitable use of resources. It goes on to set explicit aims, outcomes and targets as a means of delivery. However, both these aspects of SD are absent from this Bill. In consequence, the Goals are less ambitious and clear than its predecessor on OWOP.
31. FG Bill fails to make living within environmental limits an overarching goal and a common aim and therefore cannot be considered to be delivering SD.
32. We would suggest that the goals are amended as follows:

**Goal 1: A prosperous Wales.**

33. This goal must be amended to include
- the need for a prosperous wales to reduce its use of resources to operate within environmental limits
  - to address the issue of equitable access to resources and the
  - UN SD goal of sustainable consumption and production
34. Such an amendment would bring this goal into line with its predecessor in OWOP which included the goal of ‘living within environmental limits, using only its fair share of the earth’s resources so that Ecological Footprint is reduced to the global average availability of resources’.
35. We consider the Goal’s use of the words ‘proportionate use of resources’ is vague, it is not proportionate in relation to anything and is therefore open to wide interpretation.
- 36. WWF suggests that the Goal be reworded to include the notion of living within environmental limits and a fair share of the earth’s resources– for instance, by reference to “A more sustainable, efficient and proportionate share of resources within the limits of the carrying capacity of nature, nationally and globally.....”**

**Goal 2: A resilient Wales**

37. WWF is pleased that this seeks to address the health of the natural systems within Wales, although it makes no mention of the impacts we have on natural systems in other parts of the world.
38. This is important because people in Wales now, and in the future, are reliant on imports of goods and materials from abroad. Additionally, we are reliant on global processes, such as climate. Therefore, anything which affects the availability of those resources (for example a shortage of freshwater) or the health of the ecosystems on which we all depend (for example, the ability of forests to absorb carbon) or the functioning of global systems (such as climate change) will have an impact on our ability to meet our current needs and those of future generations. This is the principle of ‘living within environmental limits’, to which Brundtland refers.
39. We are broadly content with the drafting of Goal 2 save for the omission of its reference to international impacts. See Q3 for how this could be remedied.

### Scale of change

40. The goals, whilst aspirational, are generic and fail to give a sense of the scale of change that is required to become a sustainable Wales, which can meet the needs of future generations as well as present ones. In terms of a sense of the scale of change, it appears to us that most public bodies could read the goals and honestly state that they were working towards these already in some way. Therefore they may easily believe that they are doing all that is required and business as usual is OK.
41. OWOP addresses this challenge by stating a goal such as 'Wales will use only its fair share of earth's resources' and then setting some clear aims such as stabilising ecological footprint by 2020.
42. This OWOP approach is similar to that being adopted by the UN in regard to Sustainable Development goals where there is an overarching broad goal, with several SMART objectives under each, which include a measurable target and time frame which helps to qualify what the goal requires to achieve it. e.g. 'By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day.
43. **WWF recommends this Bill should include a requirement to set targets in relation to the goals and set SMART objectives, (containing targets) on which performance can be measured.**

### **Objectives: sections 7-8**

44. Sections 7 and 8 of the Bill outline the key duty / requirements on how the public bodies' objectives will be set and the way in which they will be delivered / operationalized
45. Section 8 outlines the process for delivering sustainable development. However, WWF is concerned that the issues to be taken into account by public bodies listed within section 8 (2) (a)-(e) appear to re-define the meaning of the SD principle in a more limiting way than in Section 3.
46. In our view, the issues to be taken into account in section 8 (2) do not include all of the matters typically considered as part of the delivery of SD such as the need to base decisions on scientific evidence and the precautionary principle..

WWF also takes issue with the phrasing used for the various criteria as follows:

47. Whilst we commend the inclusion of the requirement to safeguard the ability to meet 'long term needs' in 8.2 (a), the explanation of this term in the EM provides only social needs 'Long term' requires the recognition that environmental limits or that the earth's carrying capacity is not breached, in order for societies to continue to sustain the resources needed for the wellbeing of future generations. This issue is at the heart of wellbeing of future generations and without it the Bill will fail to deliver meaningful sustainable development.
48. We consider the use of the phrase within 8 (2) (a) of '**balancing**' the short term needs with the need to safeguard the ability to meet long term needs is incompatible with ensuring that the 'needs of the present are met *without compromising* the ability of future generations to meet their own needs'. The notion that certain short-termist decisions may affect the ability of future generations to live a life of similar quality and standards as today's society is at the heart of SD. However, achieving a

balance allows a public body to exercise their discretion unfettered by an obligation to future generations. This goes to the heart of the Bill's FG purpose.

**49. WWF suggests that either there is a separate clause in this section or that Section 8(2) (a) is amended by adding “including, in the case of the climate, ecosystems the environment and natural resources, such an effect outside Wales”**

50. Section 8(2) b should be strengthened the requirement to integrate in line with OWOP, which states ‘ensure that all decisions **take into full account of, and where possible fully integrate**, the various social, economic and environmental outcomes that are being sought’ .

**2c the approach to measuring progress towards achieving well-being goals and reporting on progress;**

51. WWF considers that measuring progress of public bodies in the pursuit of SD is crucial to the effective delivery of SD.

52. Under the current scheme for delivery of SD the Welsh Ministers must set indicators that can be used to measure the delivery of SD. However, there is clear evidence that this approach has failed.

53. The Welsh Audit office<sup>6</sup> report stated that “Nor do ... Government’s performance management systems enable it to track its progress.....there is little evidence that these [SD indicators] have been actively used in policy appraisal”. In numerous SD Annual reports the Commissioner for Sustainable Futures has raised his concerns about this failed approach by WG in measuring progress. The AG has noted that there is ‘the need to understand both how they (indicators) have influenced policy and the impact of policies on the different measures, such as the response to the issues raised in last year’s State of Nature report.’<sup>7</sup>

54. Nothing in the FG Bill addresses the problem that high level SD (or wellbeing) indicators, at an all Wales scale, have failed to drive change.

55. WWF considers that the Bill needs to be significantly strengthened in this respect. We would wish to see a link made between the wellbeing indicators (section 11) and target setting, to the setting of individual organisational objectives and quantifiable performance measures.

56. The Bill should require Welsh Ministers to set targets at the same time as indicators, in respect of matters relevant to the well-being goals. A duty to take into account these targets and indicators should also be placed upon public bodies when setting objectives

57. Ministers could also be required to introduce, through regulations, the matters upon which targets will be based, for example, to be based on relevant science / advice given in the Future Trends Report and a requirement to include matters such as greenhouse gas emissions.

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<sup>6</sup> Ibid. Paragraph 22, page 12

<sup>7</sup> The Sustainable Development Annual Report 2013-14 p.8



## **2d The establishment of a Future Generations Commissioner for Wales, the Commissioner's role, powers, responsibility, governance and accountability;**

58. WWF fully supports the idea of the appointment of a Commissioner for Future Generations. Other Commissioners in Wales focus on the interests of particular social groupings and a Commissioner who can champion the interests of future generations is a worthwhile addition.

### General duty and powers

59. In the White Paper in 2012, the Government proposed that the Sustainable Development body (now FG Commissioner) should have powers to be an independent advocate for SD and be capable of 'constructively challenging' organisations on their delivery of SD'. The White Paper considered accountability as a crucial aspect of providing for an effective governance framework for SD and considered it essential that organisations were made accountable.(para 5.2)

60. In particular, the White Paper considered it necessary for the FG Commissioner to have both a 'supporting' and 'monitoring' role but not to duplicate existing audit bodies' role.

61. Inexplicably, the FG Bill provides no such powers and duties upon the FG Commissioner or upon the Auditor General for Wales (AGW). The FG Commissioner retains the weak power to make recommendations in section 20. However, this provision allows public bodies a wide exemption from compliance.

62. Equally, the White Paper argues for the AGW to play a key role in the accountability of public bodies. It states that WG intend to place a duty on the AGW (para 5.5) to include an examination of how organisations have embedded SD as their central organising principle in relation to this duty. Unlike the FG Commissioner, the AGW's powers to examine would be focused upon the systems and processes established by public bodies to govern the making of their strategic decisions when embedding SD in their planning. However, the FG Bill is silent on the AGW's role.

63. WWF agree with the conclusions in the White Paper (and with the Government's reference group) that accountability is central to embedding SD as a central organising principle

64. We suggest therefore the following amendments:

- A duty is placed upon the AGW as cited above
- That the AGW must inform and consult with the FG Commissioner about any such examination
- And that the AGW and FG Commissioner may co-operate with one another in relation to any such examination
- That the FG Commissioner is given the additional powers of enforcement, akin to those of the Children's Commissioner, in the following ways:

- i. Where scrutiny by the AGW leads to a finding of 'systemic failures' by a public body to deliver SD the FG Commissioner shall have power to examine the matter by way of reviewing and monitoring the effects of policies and systems, including the power to hold an inquiry, require information from agencies etc.. and call witnesses
- ii. Where scrutiny by the AGW finds a serious lack of compliance (but less than systemic) that the FG Commissioner has a power to challenge the current practice of the public body by conducting its own investigation and seeking compliance with its Recommendations
- iii. That the FG Commissioner has power to make recommendations for a public body to deliver a plan to bring about compliance, made under section 20 of the Bill and such recommendations must be taken into account by the relevant public body.
- iv. A power (analogous to and of the same status as those of other Commissioners) to require people to give evidence and produce documents, backed with sanctions for non-compliance. At the very least, clause 19(4) should be amended so that there is an obligation on a public body to comply with the Commissioner's request for information

### Independence

65. In order for the FG Commissioner to act both as champion of future generations and to constructively challenge public bodies it is vital that his appointment is sufficiently independent and is seen to be so publicly.
66. This is not the case, however. Current proposals curtail such independence, by requiring appointment by Welsh Ministers, instead of by the democratic will of the Assembly. Also, the shortness of the term of office (3- 5 years) and by the role of Government in deciding on an advisory body and appointing its membership.
67. *We recommend that the Commissioner:*
  - *Is appointed by the Assembly*
  - *Should have a term covering a least one cycle of production and review of the future generations report i.e. 5 years or more, preferably 7.*
68. The requirement for the Commissioner (unlike his existing counterparts) to have an advisory panel, as specified by government, seems unjustified and unsatisfactory. The panel is biased to representatives of the social aspects of SD and does not give the Commissioner the freedom to appoint expertise from across the range of aspects of SD (as recommended by the Bill reference group). WWF believes the function of the panel should be to provide a source of expertise and support. Therefore, the Act should not specify specific members but the criteria for appointment.

### **3.How effectively the Bill addresses Welsh international obligations in relation to sustainable development**

69. Principle 21, Stockholm Declaration has been described as 'the cornerstone of international environmental law'<sup>8</sup>. Principle 21 states that:  
 'States have, in accordance with the charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure

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<sup>8</sup> Sands, Principles of International Environmental Law, Second Edition, Cambridge

that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.’

70. It was confirmed by the ICJ’s 1996 Advisory Opinion that Principle 21 reflects customary international law.
- 71. WWF consider that it is essential that the FG Bill reflects the principle that States are subject to environmental limits in the exercise of their rights and that they have a responsibility not to cause damage to other States.**
72. This inherent link between the wellbeing of Wales and damage to global natural resources was acknowledged in OWOP but has been excluded from this Bill.
73. Principle 21 has been developed in other environmental agreements establishing more specific and detailed obligations, such as the rules developed in the Climate Convention and Kyoto Agreement and in the Convention on Biological Diversity.
74. Since the initial Brundtland report through the Rio Declaration and the Rio +20 Outcome document Principle 21 has been enshrined in the understanding of sustainable development. Now the UN is working on a set of Sustainable Development Goals (SDGs). The Minister has expressly stated he wishes the Bill to be compatible with the emerging SDGs and to ensure we are not ‘doing harm to our neighbours’
- 75. The Government’s Reference Group also advised the Minister that the environmental and global impacts were often given insufficient weight (in decision making) compared to more local and immediate concerns.<sup>9</sup>**
76. Although the process for developing SDGs is currently ongoing we consider that the Bill must take the opportunity to clarify Wales’ global responsibilities and to ensure that public bodies take into account in their decision making the potential for environmental damage to our global neighbours, particularly in the areas of climate and biodiversity.

We have already make explicit suggestions to amend Goal 1, Section 8.2 and the addition of targets. Additionally we recommend the following:

- 77. Ensure statutory guidance is clear on leadership, accountability, processes and ownership, including in regard to the evidence and advice to public bodies, regarding international environmental impacts, as recommended in the reference group advice to the Minister.**
- 78. Require Government to review the goals in the light of UN (or international) agreements, particularly in regard to UN SDGs.**

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<sup>9</sup> Advice note from FG Bill reference group **RE: Environmental Limits and SD decision making to Minister for Local Communities and Tackling Poverty**. January 2014

#### **4. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;**

##### 4.1. Evidence

79. A key issue highlighted by the Government's reference group is the availability of evidence and advice, particularly regarding environmental impacts, and at the appropriate scale for the public body concerned. This relates to a general concern as to the availability of expertise within the various public bodies on aspects of SD which are not their core remit.
80. The Reference group recommended "It would be helpful if the legislation set out who is responsible for providing the most up to date advice, after assessing evidence and commissioning research"<sup>10</sup>. We suggest these can be partly addressed through specifying further content for the Future Trends report and clarifying the responsibility for the provision of the evidence base, at the correct scale.
81. This relates to a further key issue in regard particularly to environmental impacts at a global scale. There needs to be clarity on whose role it is to provide advice on emerging science *and* tailor advice on this to the public bodies. The public bodies must also "Note that this lack of data and evidence also applies to social and economic elements and decision making for the long term must include dealing with uncertainty. Consideration must therefore be given to the weight applied where there is uncertainty. A risk based approach seems to be favoured by Local authorities."<sup>11</sup>
82. We note that the precautionary principle, which is one of the SD governing principles in OWOP, has been omitted from the FG Bill and yet is crucial to the governance approach required by existing EC legislation.

##### 4.2 Capacity of FG Commissioner and relationship to others.

83. WWF have some concerns that the potential scale of the role of the Commissioner is not matched by sufficient resources to deliver effectively. SD is a very broad remit and will require expertise across a broad range of areas. The role in advising and monitoring well over 50 organisations (without considering the various departments of government), as well as conducting an effective National conversation will require considerable time. Additionally, the Commissioner will have to collaborate with many other organisations to gain the evidence s/he needs for the Future Generations report. Without sufficient capacity the role will be ineffective.

##### 4.3 Accountability and availability of remedy

84. The reference group recommended "There is a need for clarity on accountability in decision making that addresses key responsibilities through clear duties and powers and which offer incentives and sanctions for non-compliance."
85. This Bill is silent on any remedy for non-compliance or under-performance.

**Anne Meikle, Head, WWF Cymru. 05.09.14**

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<sup>10</sup> *ibid*

<sup>11</sup> *ibid*

September 2014



**Consultation on the Well-being of Future Generations (Wales) Bill  
Response by Friends of the Earth Cymru**

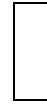
**Introduction**

1. Friends of the Earth Cymru is part of Friends of the Earth England, Wales and Northern Ireland, and supports a unique network of local campaigning groups working in communities throughout Wales. Friends of the Earth Cymru inspires the local and national action needed to protect the environment for current and future generations, and believe that the well-being of people and planet go hand in hand.
2. We welcome the opportunity to respond to the general principles of the Well-being of Future Generations (Wales) Bill and hope that we can assist the committee in developing this draft legislation into a truly ground-breaking, strong and effective law.
3. Despite an ever increasing recognition of sustainable development and sustainability since the original Rio Earth Summit in 1992, there has not been a step change in our behaviour, legislation or institutional structures, and the global actions of the past 22 years have created a state of unprecedented planetary emergency. There is an urgent need for humanity to shift course, and put the needs of the Earth and future generations above short-term gain. This will mean charting a course away from current values and expectations, developing societies and economies that support life and the Earth beyond the end of this century.

**Consultation questions**

**How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector;**

4. We strongly support having legislation to embed sustainable development and welcome the original intention and ambition of the Welsh Government to *“Legislate to make sustainable development the*



*central organising principle of the Welsh Government and public bodies in Wales.”<sup>1</sup> and for Wales “To become a ‘one planet nation’, putting sustainable development at the heart of government”<sup>2</sup>.*

5. The Welsh Government’s commitment to the international Rio+20 process going forward, and the UN Sustainable Development Goals, is a clear indication of the political will to set ourselves at the forefront of the international context and we fully support the Environment Minister’s original aim of achieving “*ground breaking legislation on Sustainable Development*” and to “*make our legislation as strong and effective as possible*”<sup>3</sup> and continue to hope that this is what will be accomplished.
6. We are part of the Sustainable Development Alliance who set out its own proposals on how this could be done last year<sup>4</sup> and continue to believe that a simple structure of setting a clear definition of what sustainable development means in Wales, a substantive duty on public bodies to exercise their functions so as to achieve sustainable development, and an independent Commissioner to hold them to account should be the basis for legislation.
7. However as we are now dealing with a published Bill we will primarily comment on the proposals in front of us and how we can move from where we are to a strong and effective piece of legislation relating to sustainable development.
8. It is of concern that the scope of the Bill seems to be limited to governance arrangements and impacts on well-being solely within Wales.
9. Despite Sustainable Development being the central organising principle of the Welsh Government, and a duty since its inception, the Wales Audit Office assessed in 2010 that it has not been integrated into financial and business planning: “*Sustainable development principles have not been consistently embedded in the Assembly Government’s strategic and operational decision making. The Government of Wales Act 2006 commits the Assembly Government to ensuring that all its funding works for sustainable development. However, sustainable development is not driving resource allocation nor is it integrated into all financial and business planning processes. The Assembly Government has not ensured that all its grant giving underpins its vision of a sustainable future.*”<sup>5</sup>
10. To address this failure, the Wales Audit Office recommended to “*Embed sustainable development in the Assembly Government’s governance procedures, financial planning, core business planning processes, change programmes and human resources processes.*”<sup>6</sup>.
11. This underlines our belief that the Bill should be about all the functions of public bodies, not only governance. There has to be an impact on decision making, particularly financial decisions and procurement for sustainability to be at the heart of the public sector. The duty must apply to public

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<sup>1</sup> Welsh Government (2011), ‘Programme for Government’ p.43

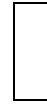
<sup>2</sup> Ibid, p.42

<sup>3</sup> Written Statement by the Welsh Government, ‘Visit to Rio+20’, Minister for Environment and Sustainable Development, 29 June 2012

<sup>4</sup> <http://www.shapingfuturewales.org/en/our-proposal/>

<sup>5</sup> Welsh Audit Office (WAO), (2010), ‘Sustainable development and business decision making in the Welsh Assembly Government’, p.11

<sup>6</sup> Ibid, p.13



authority functions so as to capture the way a public authority delivers its services and its procurement activities.

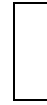
12. Our concern for well-being should not stop at Wales' borders and it is vital that Wales acts as a global citizen to promote justice and drive down extreme inequality in the world, in so far as public bodies in Wales have an impact on people outside our borders through our actions. We will expand on this in response to subsequent questions.
13. Welsh Government Ministers have said that the intention of this legislation was to set an over-arching duty on public bodies, rather than an additional duty that's considered as one of many competing duties. Currently we have a piecemeal approach towards considering sustainable development in decision making with, for example, projects going ahead on economic grounds despite overwhelmingly negative environmental impacts. Therefore the Bill must be clear that all elements of sustainable development must be met, and that the duties in this legislation are the framework within which all other duties are considered.
14. Although there are positive components to this Bill, we believe that the Bill as a whole as it currently stands has too many pitfalls and weaknesses to stand up to the claim of being ground-breaking or truly ambitious.

### **The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the following areas –**

- **The “common aim” and “sustainable development principle” established in the Bill and the “public bodies” specified;**
15. The Bill does not contain a definition of sustainable development as such, and has separated various elements into the common aim, sustainable development principle, well-being goals and elements that public bodies should “take into account” (Section 8(2)).
  16. We continue to believe that having a definition in law is essential for clarity, longevity and certainty. It will give direction to public bodies relating to this Bill and to ensure consistent interpretation of terms across the body of Welsh legislation.
  17. We would seek clarity whether the “common aim” is an overarching aim for public bodies, as was the original intention of the government, rather than one of many competing aims. We also believe that all four pillars of sustainability – economic, social, environmental and cultural – should be included in this section.
  18. The “common aim” proposed in Section 2 and indeed the purpose of the Act in Section 1 only allows for consideration of the “well-being of Wales”, not the impacts Wales has on the wider world. We believe that this must be amended.
  19. The wording of Section 3 is a short and weakened version of the definition of sustainable development from the 1987 Brundtland Report<sup>7</sup>. It is essential that it is strengthened and the use of limiting language

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<sup>7</sup> World Commission on Environment and Development (1987). *Our Common Future*.



such as “seeking to” as opposed to achieving must be avoided. We also believe that the concept of sustainable development has moved on substantially since this time, not least with the UK Sustainable Development Strategy’s five guiding principles of sustainable development<sup>8</sup> and in Wales with the definition in the current Sustainable Development Scheme “One Wales: One Planet”<sup>9</sup>. This is therefore a backwards step from having a comprehensive definition relevant to Wales and the world in the 21<sup>st</sup> century.

- **The approach to improving well-being, including setting of well-being goals, establishment of objectives by public bodies and the duties imposed on public bodies;**

20. The approach taken in the Bill seems a convoluted multi-layered process which overcomplicates what is required from public bodies and is likely to weaken implementation. There is no clear single and substantive duty on public bodies, and elements that have to be considered include the purpose, common aim, sustainable development principle, well-being goals and the elements in section 8(2).
21. The wide range of limiting and conditional terminology in different sections such as “seeking to ensure”, “pursue”, “seeking to achieve”, “take all reasonable steps” and “take into account” further dilutes and complicates the approach. Clarity, and the effectiveness of the legislation, is reduced with every section.
22. We would prefer to see a simpler architecture - a clear and substantive duty on public authorities to achieve sustainable development in all their functions, which is backed by stated outcomes and measurable targets, as previously set out in paragraphs 6 & 11.

### Goals

23. We welcome the intention to lay out clear outcomes within legislation through the goals, and welcome the National Conversation ‘The Wales We Want’ which was intended to contribute towards the formulation of these goals.
24. We believe some changes are necessary for the goals to be comprehensive and to fully reflect what a sustainable Wales would entail.
25. Comparative and relative wording for goals such as “a more equal Wales” are too weak and should be replaced by wording which is specific and measurable.
26. The global climate, environmental limits and global resources are surprisingly absent from the goals and descriptions of the goals. This should clearly be amended for the Bill to be meaningful.
27. Tackling climate change is vital to ensuring the well-being of present and future generations. The interim ‘The Wales We Want’ report identified climate change as being the most critical issue for the well-being of future generations<sup>10</sup>.
28. In a survey of public perceptions of climate change in Wales published by the Climate Change Consortium of Wales in 2013, 84% of respondents were concerned about climate change, 73% of respondents agreed that Wales should aim to set an example to the outside world when it comes to

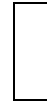
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<sup>8</sup> <http://www.defra.gov.uk/publications/files/pb10589-securing-the-future-050307.pdf> p.16

<sup>9</sup> <http://wales.gov.uk/docs/desh/publications/090521susdev1wales1planeten.pdf> p.8

<sup>10</sup> An interim Report from the pilot National Conversation on ‘The Wales We Want’, July 2014, p.25 & 26





addressing climate change, 80% were concerned about the effects of climate change in developing countries and 90% were concerned about the effects on wildlife and the natural world. A clear majority of respondents also said they would be willing to vote for politicians committed to climate change.<sup>11</sup>

29. Successive global summits, academic reports and all parties in the Assembly agree that climate change is one of the biggest challenges facing the world in the 21st century and we must take immediate action to tackle this. Otherwise we face environmental, economic, cultural and social impacts which will affect future generations, and disproportionate impact on people in poverty within Wales and across the globe. The recent IPCC reports confirm not only unequivocally the science of climate change "warming of the climate system is unequivocal", and "most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations"; it tells us what we need to do to keep us within safe temperature rise of 2 degrees Celsius to mitigate against some of the worst impacts of climate change.
30. Although sustainable development is of course wider than climate change any development we achieve will not be sustainable unless we tackle climate change. A key test of the efficacy of the Well-being of Future Generations Bill will be how it will drive the reduction of our emissions in Wales - both our territorial and consumption emissions.
31. The goals do not recognise or address our international impacts. This issue is not confined to the goals but must be included throughout the Bill to make clear that those issues which public bodies can impact such as fairtrade and ethical procurement of goods and services will be addressed. In the goals a reference could be made to Wales using only its fair share of resources and avoiding adverse international impacts.

#### Sustainable Development Principles (Section 8(2))

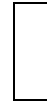
32. Section 8(2) sets out some very important principles, many of which stem from the 1992 Rio Declaration on Environment and Development<sup>12</sup>, such as the preventative principle and long termism. These are a crucial part of taking a sustainable development approach to decision making and form part of the definition of sustainable development agreed by the Sustainable Development Alliance<sup>13</sup>. If these are to remain in a separate section from a definition or the goals there must be a clearer link than for public bodies to "take into account" – these are key principles which have to be central to the application of sustainable development.
33. We believe the principles outlined in this section are incomplete but can be built upon and further clarified – a basis of sound science or evidence base for decision making, the precautionary principle, the polluter pays principle and a stronger emphasis on good governance should be added. The Bill should also reflect and enhance the provisions within the Aarhus Convention on access to information, public participation and access to justice in environmental decision-making. This is an ideal opportunity to embed widely recognised principles into Welsh legislation.
34. "Long term needs" must also relate to global ecosystems and impacts outside Wales.

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<sup>11</sup> Capstick, S.B., Pidgeon, N.F., and Whitehead, M.S. (2013). 'Public perceptions of climate change in Wales: Summary findings of a survey of the Welsh public conducted during November and December 2012'. Climate Change Consortium of Wales, Cardiff.

<sup>12</sup> <http://www.unep.org/Documents.Multilingual/Default.asp?documentid=78&articleid=1163>

<sup>13</sup> <http://www.shapingfuturewales.org/en/our-proposal/> clause 2



- **The approach to measuring progress towards achieving well-being goals and reporting on progress;**

35. There is quite a gap between public bodies writing their own well-being objectives designed to “maximise its contribution to the achievement of the well-being goals” based on the multi-layered set of considerations previously outlined, and the actual achievement of those goals.

36. It should not be up to public bodies to decide not to follow a Commissioner’s recommendation because they are satisfied there is good reason not to do so (Sections 19-20). As well as undermining the Commissioner’s role this is not an approach that will lead to the goals being met or set the right culture for public bodies.

37. It is not at all clear how progress will be achieved or ensured, with no legal redress and a lack of effective scrutiny mechanisms.

38. Whilst national indicators in themselves are useful for showing progress, or lack of, it is not in itself a way of ensuring progress is made, as we know from the current Sustainable Development Indicators.

39. One way of measuring progress on the well-being objectives is if there is a requirement in the Bill for public bodies and Welsh Ministers to set targets (in Sections 7 & 9). The Bill should set out some key areas that must be measured and timeframes for progress, such as targets for reduction in climate change emissions.

40. In January 2013, the UK Committee on Climate Change published a report on ‘Progress reducing emissions and preparing for climate change in Wales’<sup>14</sup> which stated, “Our conclusions from this analysis are setting a statutory underpinning to Wales’ climate change targets could help to provide certainty to policy-makers, businesses, investors, and wider society in Wales and strengthen incentives to reduce emissions”. It saw the forthcoming Well-being of Future Generations Bill as a key opportunity to achieve this. We support this conclusion and recommend that the Bill would be an opportune and appropriate place to include statutory climate change targets.

41. The One Planet approach of measuring ecological footprints, in line with the current sustainable development scheme and including assessing the use of land, materials, water and carbon, should be part of annual well-being reports or other systems for monitoring and reviewing.

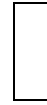
- **The establishment of a Future Generations Commissioner for Wales, the Commissioner’s role, powers, responsibility, governance and accountability;**

42. We strongly support the establishment of an independent Commissioner who should be a powerful champion for future generations, people in developing countries and those living in poverty in Wales – all of whom are impacted by unsustainable development.

43. The independence of the Commissioner’s role as outlined in the Bill and Explanatory Memorandum is questionable on a number of levels under the current proposals. In particular we would highlight the following issues;

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<sup>14</sup> [http://www.theccc.org.uk/wp-content/uploads/2013/01/1673\\_Welsh-Rep-2013FINALWEB.pdf](http://www.theccc.org.uk/wp-content/uploads/2013/01/1673_Welsh-Rep-2013FINALWEB.pdf)



- Appointment – In order to hold the Government and public sector in Wales to account the Commissioner should be appointed by the Assembly and not the Government.
- Workplan, budget, and staffing of the Commissioner’s office – it is not appropriate for such operational areas of the Commissioner’s office to have to be agreed by Welsh Ministers.
- Advisory panel – it is not acceptable that Welsh Ministers would appoint any additional members.

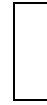
#### Lack of powers and limited remit

44. The remit of the Commissioner should be broadened to reflect the purpose of the legislation as set out in Section 1. The Commissioner should have a general duty to act in the interest of future generations.
45. The Commissioner should be both empowered and required to investigate and take action on failures by government and public bodies to comply with the provisions of the Bill, and more widely to protect the interest of future generations.
46. The Commissioner must also be adequately resourced, with a staff able to support a significant programme of work including; research, policy development, support for the public sector in developing effective objectives and investigative capacity to hold the devolved public sector to account.
47. In terms of powers we believe the Commissioner should be given the power of investigation, including requiring bodies to provide evidence for its inquiries.
48. We believe that the Commissioner should be able to take complaints and act as an ombudsperson with regard to the discharge of the Bill’s provisions by public bodies, similar to the current Children’s and Welsh Language Commissioners.
49. The Bill is not specific about the role of and relationship with the Wales Audit Office and Auditor General, and how monitoring and auditing will be carried out. As a minimum there should be a clear duty of collaboration between the Commissioner and the Wales Audit Office set out in this Bill.
50. Whilst we welcome the inclusion of giving advice to Welsh Ministers on climate change within the Commissioner’s functions, this is the only place in the Bill that climate change is mentioned, and it’s not clear how this related to the various levels of goals, aims and principles. We recommend that this function be kept but that it is made clear elsewhere in the Bill that tackling climate change is a key part of sustainable development and the duty on public bodies.
51. It’s not clear what is expected of the Advisory Panel. External expertise will be needed but it’s not evident how the proposed panel membership would cover the scope of advice required by the Commissioner, what scale of input they could have given their own existing statutory functions or what level of support would be provided.

#### **The establishment of statutory Public Services Boards, assessments of local Well-being and development / implementation of local well-being plans.**

52. We have no expertise in this matter therefore do not wish to comment. It does seem that this Bill has become principally about public administration rather than sustainable development.

#### **How effectively the Bill addresses Welsh international obligations in relation to sustainable development;**



53. The Bill as currently drafted does not mention our international obligations at all. This is a surprising omission, and a step backwards from the White Paper proposal that was itself criticised for being too weak a commitment to global impacts.
54. The Welsh Government's White Paper which preceded this Bill stated: *"The Welsh Government recognises the need to take into account the impacts outside of Wales given that Wales' wellbeing cannot be seen in isolation. This is an important part of a sustainable development approach. The Welsh Government will look to ensure that this element is encompassed within the framework for sustainable development in Wales, in a reasonable and proportionate manner and within the scope of the legislative competence of the Assembly."*<sup>15</sup>
55. The Bill should explicitly recognise and give regard to the positive and negative impacts that Wales has on people and the environment internationally, e.g. through consumption of resources, the supply chains of the Welsh public sector including products and services procured, the activities of Welsh businesses abroad, the impacts of carbon emissions produced in Wales and the support provided for projects overseas.
56. Wales cannot be a sustainable nation without recognising and dealing with its impacts beyond its borders. We have outlined suggested areas where this should be amended in paragraphs 12, 18, 26, 30 & 31.

**Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;**

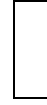
57. We believe the complexity of the architecture of the Bill to be a barrier to effective implementation of the Bill, as we have already explained in paragraphs 20-22.
58. Some other possible barriers are;
- A lack of effective scrutiny mechanisms;
  - The lack of remedy and redress if objectives are not met, if there is insufficient progress towards meeting the goals or incorrect interpretation of a requirement;
  - An under-resourced Commissioner's office with lack of capacity and expertise;
  - A lack of data and knowledge within public bodies to carry out necessary assessments and prepare well-being objectives;
  - A Commissioner with weak powers who will not be able to hold the government and public bodies to account.

**Whether there are any unintended consequences arising from the Bill;**

59. There is a risk of confusion around the terms "well-being" and "sustainable development" in Welsh law if there aren't clear definitions in this Bill which is both consistent with existing legislation such as the Social Services and Well-being Act and will be referred to in forthcoming legislation such as the Planning Bill and Environment Bill.

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<sup>15</sup> Sustainable Development Bill White Paper, December 2012 <http://wales.gov.uk/docs/desh/consultation/121203asusdevwhitepaperen.pdf>



**The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum and Regulatory Impact Assessment; which estimates the costs and benefits of implementation of the Bill);**

60. We have no comment other than the office of the Commissioner should be sufficiently funded to meet its duty and functions, in line with comparative Commissioners in Wales.

**The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).**

61. The goals set in legislation should only be amended by the Assembly rather than by Welsh Ministers. As well as providing additional scrutiny, this would ensure a level of certainty for those public bodies operating towards achievement of the goals.

National Assembly for Wales  
Environment and Sustainability Committee  
WFG 21  
Well-being of Future Generations (Wales) Bill  
Response from RSPB Cymru's



**Evidence submitted by RSPB Cymru to the Inquiry of the Environment and Sustainability Committee into the general principles of the Well-being of Future Generations (Wales) Bill**  
September 2014

*RSPB Cymru is part of the RSPB, the country's largest nature conservation charity. The RSPB works together with our partners, to protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations. The RSPB has over 1 million members, including more than 51,000 living in Wales.*

1. Introduction

- 1.1 RSPB Cymru welcomes the Well-being of Future Generations (WFG) Bill as an important further step on the road to a more sustainable Wales. However, as it stands the Bill needs strengthening and greater clarity before it can be read with confidence as a legal delivery mechanism for sustainable development (SD). We therefore welcome this opportunity to submit evidence to the Environment and Sustainability Committee stage 1 scrutiny of the legislation. We would welcome the opportunity to elaborate on the issues outlined in this paper in oral evidence sessions.
- 1.2 This legislative approach to moving forward with SD in Wales helps build on *One Wales: One Planet*. It is indisputable that the pace of movement towards sustainable living has been slow; the introduction of a legal requirement for public bodies should help to accelerate the overall pace of change. Whilst business (including commercial, agriculture, fisheries, etc), industry and individuals will not be directly governed by the Bill, it is to be expected that their links to government and public bodies will ensure that the principles of thinking and living sustainably will have a broader reach.
- 1.3 Sustainable development is recognised in *One Wales: One Planet* as the 'central organising principle' for government in Wales, not only for now but indefinitely into the future. The wording and provisions within the WFG Bill must therefore be sufficiently robust to ensure continued delivery of SD despite external changes in the future. We must also ensure we have a robust and considered set of well-being goals which meet the future aspirations we have for our county.
- 1.4 Whilst the aims of the legislation are laudable it must inevitably lead to a change in how Government conducts its business if it is to deliver on its aspirations. For example, it is worth considering how a project such as the M4 might have been approached had this legislation already been in place. In other words what difference might the Bill make to fundamental issues of policy and decision-making? It is with this consideration in mind that we approach the Bill and in our evidence, we propose where changes may need to be made to truly achieve SD for the well-being of the current and future generations of Wales.
- 1.5 We are not clear what the date for full commencement of the provisions are within the legislation and would recommend a commitment is included in the text of the Bill itself.

## 2. Well-being Goals – A Resilient Wales

2.1 Under the new legislation, public bodies are required to seek to achieve six well-being goals, which, taken together, represent in effect the sustainable development duty. The goals are fundamental to the general principles of the Bill as they set out the general direction towards our vision for a sustainable Wales. It is therefore vital that we ensure the goals reflect a truly sustainable Wales.

2.2 The ‘common aim’ referenced in Part 1 Section 2 of the Bill rightly lists the environment alongside the economy and society, as is fundamental under the SD principle. The health of the environment is central to human well-being (social and economic) – sustainability, therefore, starts with the environment.

2.3 In particular, we are pleased to see the goal relating to the natural environment: “A resilient Wales”. In order for ‘A resilient Wales’ to fully meet the requirement set out in Part 1 Section 3 for the ‘sustainable development principle’, ie meeting the needs of future generations as well as of present generations, we believe a small addition to the present text is required to strengthen it.

2.4 The wording in the current descriptor of the goal requires improvement to clarify that we wish to see a restored and thriving natural environment in the future. We would therefore recommend that this is made explicit in the text that we are seeking “restored and enhanced,” biodiversity and, to this end, we propose the insertion of the wording as follows (additions in bold) : ‘A biodiverse natural environment is **restored and enhanced**, with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change...’. This qualification is consistent with the comparative wording used for ‘A healthier Wales’ and ‘A more equal Wales’ well-being goals.

2.5 The Explanatory Memorandum to the Bill (paragraph 81) acknowledges the findings of the *State of Nature* report. This health check of UK wildlife which was published last year, highlighted the serious extent to which biodiversity in the UK and Wales has declined in recent decades. Of more than 3,000 species assessed across the UK, 60% were found to have declined over the last fifty years, with 31% having declined strongly.

2.6 Species declines in Wales, include:

- Numbers of breeding upland wading birds, such as curlew, lapwing and golden plover, have declined by more than three-quarters in recent decades.
- More than one in seven plants in Wales are considered threatened. Wildflowers, especially arable flowers such as the small-flowered catchfly and corn buttercup, continue to decline and have a smaller range now than at any other time in recent decades.
- 63% of Welsh butterflies are declining. More than three-quarters of Welsh pearl-bordered fritillaries have been lost. While a third of all widespread Welsh moths are severely declining.

2.7 The primary cause for the decline in species is down to habitat decline as a consequence of our unsustainable way of life, the impact of climate change on the location and range of species will also grow as we move forward into the century. **The scale of current and continuing loss of both species and habitats is unsustainable, and only serves to point up the need for a clear and unambiguous commitment in the WFG Bill to restoring and enhancing biodiversity in the context of healthy ecosystems**; this will be an important feature of a sustainable future for our children and grandchildren. In turn, such a provision can form the basis for appropriate measures to be included in the forthcoming Environment Bill, and ensure Welsh Government meets its international commitments to halting the loss of and restoring biodiversity.

2.8 Moreover, the suggested amendment, reaffirms the key point that biodiversity has an intrinsic value for itself that is over and beyond its sometime value as a ‘service’ to the human species.

### 3 National Indicators

3.1 We note the commitment in the Bill (Part 2 Section 11) to publishing national indicators designed to measure progress towards the delivery by Welsh public bodies of the well-being goals, with the findings of the various measures to feature in annual well-being reports. **It is vital that such indicators include appropriate measures of progress in the recovery of biodiversity, in support of the resilient Wales goal.** In the development of such indicators Government will need to consult with, take advice from and use the expertise in the sector. We would expect appropriate species and habitats indicators to be developed in relation to the resilience goal and the appropriate links made with the forthcoming Environment Bill.

3.2 We would also expect to find indicators that measure carbon emissions from Welsh sources – and from global, non-Welsh sources, where such emissions are the product of consumption in Wales – the Welsh Ecological Footprint, current details of which, though promised, to date remain unreported. The commitment in ‘A prosperous Wales’ to the use of resources will also require appropriate indicators.

### 4 Powers of Ministers to amend the Well-being goals by regulation

4.1 We note that the Bill – in various sections – includes provision for Ministers to amend this legislation in the future by subordinate legislation. This includes a proposal in Part 2 Section 6 (3), that Ministers can make changes to the well-being goals in the future by regulation. The Explanatory Memorandum clarifies that this would be through the affirmative procedure. However, we consider that **any changes (amendment, addition or removal) to one or more of the six well-being goals should be conditional upon detailed Assembly scrutiny akin to that of primary legislative procedure to ensure democratic accountability.** As noted above, the well-being goals are, in effect, the sustainable development ‘duty’ on public sector bodies and therefore underpin the legislation. Full debate and detailed consideration in the Assembly should therefore be required before any significant changes to goals could be made in the future. Great care is needed, therefore, in relation to the provision for Government to add to, change or remove altogether any of the well-being goals. An appropriate level of scrutiny should precede any decision as this could indicate in a significant policy departure for the legislation.

4.2 As in the Explanatory Memorandum, it would be helpful if the Bill clearly stated in each case which procedure the regulatory changes would follow.

### 5 Objectives and Actions

5.1 Part 2, Sections 7, 8 and 9 set out requirements and procedures concerning the objectives and associated actions that public bodies will be required to follow in order to maximise their contribution towards achievement of the well-being goals. However, it is unclear whether this provision will succeed in capturing every decision and action that public bodies might be required to take over a five year period. These sections provide for public bodies to amend their objectives; however it is not clear whether a public body could then decide to act outside of the provisions in the legislation if the matter in question is not included in its objectives. If this is the case, this would fundamentally undermine the aims of the legislation to achieve a more sustainable Wales. **There is a need for the Bill to include a general statement that all governance decisions and actions of a listed public body should be consistent with the sustainable development principle and with the common aim**, and not just with the published objectives. This proposal is especially important in relation to the policies and decisions of the Welsh Government.

### 6 Living within environmental limits – the sustainable development principle



- 6.1 We note that the Bill does not include a definition *per se* for sustainable development. *One Wales: One Planet*, however, includes a strong wording that encompasses ‘well-being’, as well as making reference both to respecting environmental limits and to using only our fair share of the earth’s resources
- 6.2 These two objectives sit at the very core of sustainable development: the definition of SD given in *One Wales: One Planet* is that it ‘will be the overarching strategic aim’ of all WG policies and programmes. The two objectives are referenced in the Explanatory Memorandum; we would like to see them also reflected in the legislation itself.
- 6.3 At the heart of the drive to live more sustainably is the recognition that the environment and resources of the planet are finite, and yet economies and societies persist in thinking and acting as if this were not the case. We must find ways of sustaining not just ourselves but also succeeding generations, both of humans and of wildlife, as purposed by this Bill; hence the importance of including in the Bill recognition of the centrality of the finite nature of the planet.
- 6.4 The concept of ‘living within environmental limits’ has attracted debate concerning how it can best be understood and applied at the level of organisational decision-making: in some areas, such as greenhouse gas emissions and biodiversity losses from human activities, it is already demonstrably clear that environmental limits are being exceeded, but in others the existence of boundaries or potential tipping points may not yet be so clear. Hence, the fundamental importance of the precautionary principle in our approach to using and managing the environment and its resources more sustainably than we are currently.
- 6.5 **We recommend, therefore, that both ‘living within environmental limits’ and ‘Wales using only our fair share of the Earth’s resources’ be included in the section 3 description of the ‘sustainable development principle’.** Consideration is also needed to the stronger expression ‘ensuring’ rather than the current wording of the principle, which is ‘seeking to’.
- 6.6 We also recommend that space in the Bill be found for referencing **the importance of the precautionary principle** in the governance of public bodies: a separate section might be the best way to give it expression, say as a new section 4 after current section 3.

## 7 Other public bodies

- 7.1 We query why the National Assembly for Wales itself and Further and Higher Education institutions are not listed on the proposed list of public bodies in Part 1 Section 5, to which the Bill is intended to apply.

## 8 The Future Generations Commissioner for Wales

- 8.1 RSPB Cymru welcomes the appointment of a Future Generations Commissioner, but proposes a strengthening of his/her powers and responsibilities beyond those provided for in the Bill. In a number of instances through Part 3, we would suggest the replacement of ‘encourage’ with ‘require’ in the general duty of the Commissioner to promote the sustainable development principle among the public bodies concerned. If legislating for sustainable development and the well-being of future generations is to mean anything then voluntarism must be replaced by obligation and duty. If public bodies believe in particular instances that they cannot comply in their governance with the legislation, they can take this up with the Commissioner. But for the Act to have teeth, **it will be important for the Commissioner to be empowered to overrule a public body, having considered its representations, and require it to act in accordance with the legislation.**
- 8.2 The provision in Part 3 Section 20 of the Bill for a public body (other than an elected body) to choose not to follow the Commissioner’s recommendation on a particular matter, we believe to be flawed. If such a public body believes that it has ‘good reason’ not to follow a recommendation made by the Commissioner, its duty must be to persuade him/her of its case, and be required to

publish the rationale for their decision. **The Bill should not give allowance to a public body to ignore the Commissioner's recommendation whenever it so chooses.**

- 8.3 Preparation of the Future Generations report will clearly form a major part of the Commissioner's proposed responsibilities, and will be a fundamental document in guiding public bodies in the mainstreaming of SD in their governance. Part 3 Section 22 lists persons and bodies to be consulted by the Commissioner in his/her preparation of the report, and we welcome the inclusion of representatives of Welsh business, trade unions and voluntary organisations, extending views, therefore, beyond the public sector itself. It is to be hoped that the Bill will help to change decisions and behaviour beyond just the listed public bodies, with Government and other public bodies setting sustainability conditions in relation to procurement, contracts and funding. The Commissioner's report will be a major piece of work, and it is welcome that the full report will be debated in the Assembly.
- 8.4 An apparent oddity in Part 3 Section 18 concerning the Commissioner's functions is the provision in sub-section (1) (a) for him/her to provide advice to Welsh Ministers on climate change. Climate change and its human causes are arguably a core reason for sustainable development, yet this is the only reference made to the issue anywhere in the Bill. We question why climate change been identified here and nowhere else. What are the Government's intentions concerning the future of the Welsh Climate Change Commission and the role in relation to it of the Commissioner? Arrangements will be needed for the Commissioner to seek information and advice from the UK Committee on Climate Change, possibly via the Welsh Government.
- 8.5 The provision in Part 3 Section 25 sub-section (2) for the Commissioner's term of appointment to be for between three and five years is relatively short given the nature and responsibilities of the post; we note, by contrast, that the Children's Commissioner has a seven-year period of appointment.
- 8.6 This leads on to consideration of the proposed advisory panel to the Commissioner (sections 24 to 26). As well as the appointees suggested, we would have expected the membership to include specialists in the field of sustainable development, together with the Chair of the Welsh Climate Change Commission, chosen precisely for their expertise. Perhaps this is intended by the provision in (2) (f) for additional appointments to the panel, but **we would suggest that appropriate SD specialists should be appointed.**
- 8.7 However, a major consideration is that the Commissioner – and the advisory panel – must be seen to be independent of Government, not least because Government itself will be subject to his/her recommendations. We would suggest therefore that the Commissioner, and members of the advisory panel, should be appointed by the Assembly rather than Ministers, and would recommend appropriate amendment to this effect. The Commissioner must be demonstrably at liberty to disagree with the government of the day; this cannot be assured if the appointments procedure enables the Government to appoint someone of its choice and to its liking.

## 9 Public Services Boards

- 9.1 A major part of the Bill concerns the creation of statutory Public Services Boards (PSBs) and the designated responsibility of such Boards for preparing local well-being plans. It is understood that the new PSBs will build upon the current role of the Local Service Boards, but with an altered membership and role. RSPB Cymru has, of course, a particular interest in the environmental planning and management role that might be entrusted to PSBs and, further, how this might relate to provisions concerning area-based management of natural resources, as outlined in the Environment White Paper earlier this year for the forthcoming Environment Bill, including a reference then to a possible role for LSBs. The aim of each PSB – the 'local aim' - is said to include *inter alia* (section 34 (1)) to improve the environmental well-being of its area in accordance with the sustainable development principle. It is not clear how this role will relate to

whatever structures and processes emerge from the Environment Bill for area-based management of natural resources.

- 9.2 Further, the Explanatory Memorandum (EM) to the Bill says (paragraph 183) that PSBs will be required to address *inter alia* the 'lack of an environmental dimension' in many existing Single Integrated Plans. The EM also says (paragraph 195) that PSBs will link more closely local well-being plans with Local Development Plans, with NRW membership of PSBs to provide a link to proposed area-based natural resource management plans. There seems to be the potential here for several separate but inter-locking local plans and with, as yet, no indication of where responsibility would lie for delivery. We are concerned that what is proposed will blur lines of responsibility for environmental management and improvement. Guidance concerning what is envisaged for the enactment of the Environment Bill would clearly be welcome.
- 9.3 The proposed membership of the PSBs offers very limited representation for the environment, with only the NRW representative there to promote and defend its interests. The EM has noted the lack of an environmental dimension in the thinking, hitherto, of the LSBs, and the proposed membership of PSBs – with its heavy 'social' focus – seems unlikely to overcome this shortcoming. Enhanced representation for the environment can, of course, be delivered in the form of 'invited participants' at the behest of the established members of each board, but this will be a random process. **We would recommend the addition of at least one further environmental member as of right to each PSB, say the local authority ecologist and/or a representative of a local environmental or conservation body.**
- 9.4 The current high number of potential PSBs would put an additional duty upon NRW. In order to ensure NRW is able adequately to represent the environmental interest across all PSBs, Government must ensure the body is resourced to deliver this additional role.
- 9.5 **Non-elected Public Services Boards create a gap between local democracy and accountability for decisions**, notwithstanding provisions in the Bill for two senior local authority representatives on each PSB – only one of who, however, would be elected – and for oversight by the relevant local authority scrutiny committee. Local well-being plans will replace community strategies, and could involve major decisions with only indirect accountability back to elected representatives.

### Community Councils

- 9.6 The provision in section 39 of the Bill for community councils above a designated financial size to have responsibility for meeting objectives included in the local well-being plan raises again a concern about both membership and capacity, especially in relation to environmental management. Members of such councils may or may not have the knowledge, time and capacity to take on the objectives in the local well-being plan relating to their respective areas. It is not clear whether appropriate ecological advice would be available. It is also not evident how community councils will be engaged with PSBs and others in developing the local well-being plans.



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## Wales Environment Link evidence to the Environment and Sustainability Committee of the National Assembly for Wales

### Well-being of Future Generations Bill: Stage 1 consideration of general principles of the Bill

As the officially designated intermediary body between the Government and the environmental NGO sector in Wales, Wales Environment Link (WEL) values the opportunity to contribute to this potentially ground-breaking and world-leading Bill.

The cross-cutting nature of this Bill provides a real opportunity to truly mainstream environmental sustainability into all Government and public body decision-making. As such, we welcome the invitation to engage with this scrutiny process.

In the interest of aiding the Committee's scrutiny, we have addressed our concerns according to the Terms of Reference of the Committee's considerations.

#### 1. How the Welsh Government should legislate to put sustainability and sustainable development at the heart of government and the wider public sector;

1.1 The Government's intention to legislate for sustainable development is welcome. WEL believes there are a number of essential key elements required to make the legislation effective:

- A **strong duty**, so that public bodies "must exercise their functions in order to achieve sustainable development"
- A **definition that gives clarity on the meaning of sustainable development**, including the principles and objectives it seeks to achieve
- An **independent Commissioner** accountable to the Assembly who would promote and facilitate the achievement of sustainable development
- A **commitment to restoring the diversity and functioning of the natural environment** underpinning our society and economy

1.2 This last point was recognised by the Welsh Government, in commenting on Dubai's green economy strategy, when the then-Natural Resources Minister said, "*After all, our*

*natural resources are [our] most valuable asset and this is true of countries right across the globe.”<sup>1</sup>*

1.3 Without the sustainable use of natural resources, we undermine our ability to continue to provide the food and water we need to survive, or the raw materials we need to make the products that our economy relies on. Similarly, it is the overuse of resources which damages ecosystems and the biodiversity within them globally. A Welsh law for sustainable development must reverse this damage, halt biodiversity decline, then restore and enhance the habitats in Wales which provide us with the ecosystem services we need to survive. It must also account for Wales’ share of global consumption and resource use and all public bodies should take into account the international impacts of their decisions, including procurement, and not ‘export’ either environmental or social problems. We also believe that one of the requirements of a healthy natural environment is that our special landscapes and seascapes are cherished and protected from inappropriate development.

1.4 An excellent approach may be seen in Sweden, which has an over-arching goal in its Environmental Code, containing national environmental quality objectives to guide environmental action at every level.

“The purpose of this Code is to promote sustainable development which will assure a healthy and sound environment for present and future generations. Such development will be based on recognition of the fact that nature is worthy of protection and that our right to modify and exploit nature carries with it a responsibility for wise management of natural resources.”

1.5 **The goal is to pass on to the next generation a society in which the major environmental problems have been solved**, without increasing environmental and health problems beyond Sweden’s borders<sup>2</sup>. A Welsh law should set out to do the same, or better; for instance, whilst the Swedish system works through evaluations and agreeing strategies with targets, milestones and activities to support its national environmental quality objectives, it is not legally binding.

1.6 Furthermore, the UN is progressing work on its Sustainable Development Goals and the Bill should contain a commitment to review the goals in light of these to ensure they are complementary.

## **2. The general principles of the Well-being of Future Generations (Wales) Bill and the need for legislation in the following areas [... sustainable development principle... public bodies specified... well-being goals... duties imposed on public bodies... measuring progress... Commissioner... Public Service Boards...]**

2.1 WEL reiterates some key points here but would also like to refer the Committee back to its position paper on the proposed FG Bill Goals (April 2014)<sup>3</sup>

2.2 We need a **strong definition**, as opposed to a ‘principle’, which provides clear and unambiguous direction to public bodies when considering how they should work towards achieving the national well-being goals. The sustainable development principle is the core of a definition, but it is weak, lacks ambition, and uses limiting language such as ‘*seeking to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.*’ [Emphasis added].

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<sup>1</sup> Alun Davies, <http://wales.gov.uk/newsroom/environmentandcountryside/2014/140228dubai/?lang=en>

<sup>2</sup> Sweden Environmental Code, Part 1, Chapter 1 provides s.1.

<sup>3</sup> [http://waleslink.org/sites/default/files/WEL\\_Views\\_on\\_the\\_FG\\_Bill\\_Goals\\_Final.pdf](http://waleslink.org/sites/default/files/WEL_Views_on_the_FG_Bill_Goals_Final.pdf)

- 2.3 WEL is concerned that the **scope of the duty** is unclear, for example, whether it applies to financial and procurement decisions, which we believe it should. We also reject the use of limiting words such as ‘*seek to*’ and recommend ‘*to achieve*’ instead.
- 2.4 The Minister in charge of this Bill, Jeff Cuthbert, told WEL in October 2013 that the Bill would ‘set over-arching obligations on public bodies, delivery boards, etc.’ to show how they’ve brought SD into their decision-making. We would therefore expect Government departments and public bodies to be more effectively required to consider whether their decisions can be made in a more environmentally friendly and more cost effective way whilst considering social impacts. Currently we have a piecemeal approach towards sustainable development, where we see environmental objectives being dropped in favour of social and economic ones. The current conflict over the Government’s intention for an M4 relief road, despite significant environmental damage, may be considered an example. Therefore, we need a **strong duty** which applies to **all** public bodies across **all** their functions. We consider this necessary to truly achieve sustainable development.
- 2.5 The lack of commitment to environmental objectives has led to the irrecoverable loss of some species and habitats and severe damage to others. This makes it all the more important to repair, restore and maintain what remains. Furthermore, it must be recognised that, in order to function properly, ecosystems must continue to sit within coherent and well-protected landscapes and seascapes. Lessons can be learned from biodiversity legislation in other countries such as in Minnesota, USA, which emphasises the enhancement of natural resources:<sup>4</sup>
- “The legislature finds and declares that each person is entitled by right to the protection, preservation, and enhancement of air, water, land, and other natural resources located within the state and that each person has the responsibility to contribute to the protection, preservation, and enhancement thereof. The legislature further declares its policy to create and maintain within the state conditions under which human beings and nature can exist in productive harmony in order that present and future generations may enjoy clean air and water, productive land, and other natural resources with which this state has been endowed.”
- 2.6 In this light, WEL believes that the **national goals** do not adequately reflect the need to **restore Wales’ damaged biodiversity**, the extent of which was highlighted in the *State of Nature* report and acknowledged in the Explanatory Memorandum to this Bill. In this vein, WEL believes the Resilience descriptor should be improved to make this clear, reading: “A biodiverse natural environment is *restored and enhanced*, with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change.”
- 2.7 Other goals are more weak and less ambitious than those in *One Wales One Planet* in terms of reducing the economy’s use of natural resources, our contribution to climate change and to use a ‘fair share of the earth’s resources’; compared to ‘proportionate use’ as stated in the Bill (more below).
- 2.8 WEL remains concerned about the powers and duties of the **Commissioner**, which are inadequate. The role is not independent enough, which is made clear in the appointment process, term of office and the advisory board appointments. The role should have a much stronger purpose so as to hold Government and public bodies to account, not to simply advise them. This presents the risk of advice being ignored. To

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<sup>4</sup> Minnesota Environmental Rights Act Statute 116B.01 (2006)

properly scrutinise the Government, we believe the Commissioner should be independent and appointed by the Assembly, not by the Government.

- 2.9 WEL is also concerned about the composition of the **Public Service Boards**. We believe that having NRW as the sole environmental representative is insufficient. Furthermore we question whether NRW currently has the capacity to fully address environmental issues across all of the local level Boards which will require significant resource requirement in terms of staff time. This includes providing evidence on the international aspects of global systems and environmental limits. How this will be addressed in practice needs further consideration.
- 2.10 The Bill does not seem to be specific about the Auditor General for Wales' role in auditing the progress of public bodies in achieving their well-being objectives, other than receiving their annual reports or, in the case of the Public Service Boards, their local well-being plans and reports on progress with those.

### 3. How effectively the Bill addresses Welsh international obligations in relation to sustainable development;

- 3.1 The Bill's **national goals** do not address international obligations. The 'principle' in the Bill makes no mention of considering impacts outside of Wales or of the important concept in Brundtland of 'living within **environmental limits**'. This is a significant omission which threatens and undermines the credibility of the legislation. Our global impact needs to be included effectively – either in the goals or elsewhere. Wales cannot be a sustainable nation without recognising and reducing its impact beyond its borders. Therefore the Bill needs to enshrine living within environmental limits and using a fair share of the Earth's resources, as in *One Wales One Planet*. Not doing so to date has led to Wales failing to meet its international obligations to halt the decline of biodiversity by 2010 and must now ensure it has systems in place to meet the new 2020 deadline<sup>5</sup> for "halting the loss of biodiversity and the degradation of ecosystems in the EU".
- 3.2 Another glaring omission is the failure to mention or act on **climate change**. This is despite it being one of the biggest priority issues for the world, a symptom of living beyond environmental limits, highlighted as a priority issue in 'The 'Wales We Want' National conversation and one that is consistently raised by Welsh Government.

*"It is quite clear to me that climate change is happening and that it is influenced by the way in which we live our lives. It strikes me that the overwhelming scientific evidence supports that conclusion."* Carwyn Jones, 11 February 2014, the Record

*"Tackling climate change also presents us with the opportunity to create jobs, stimulate green growth and tackle poverty, but to do this we need to adapt and do things differently to ensure the best possible future for Wales."* Ex-Minister, Alun Davies<sup>6</sup>

- 3.3 Climate change is an example of a global system impacted by all peoples and nations which is reaching its environmental limit. Increasingly in the future climate change will have a significant impact on public bodies' ability to deliver on their well-being objectives, therefore WEL believes the Bill must recognise this and provide for public bodies to address both **climate change mitigation and adaptation** as part of the national goals. We recommend a requirement or specification for emission reduction targets, either in this Bill or the Environment Bill. It is worth noting that Welsh local

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<sup>5</sup> <http://ec.europa.eu/environment/nature/biodiversity/comm2006/2020.htm>

<sup>6</sup> <http://wales.gov.uk/newsroom/environmentandcountryside/2014/141303climate/?lang=en>

authorities *would already be* considering climate change measures had the Welsh Government activated its duties under the Climate Act (2008).<sup>7</sup>

- 3.4 Furthermore, a strong duty would provide the drive and guidance necessary for public bodies to scrutinise their supply chains and limit or stop the use of products adversely connected to threatened species and habitats such as rainforests.

**4. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them;**

- 4.1 A key barrier to the implementation of these provisions is a lack of targets. We are concerned that the goals are very general and fail to convey a sense of scale or urgency to meet them, such as how much healthier does Wales need to be and how soon? We believe the Bill should require Government to set targets in relation to the national goals and not limit it to 'indicators of progress'. These targets can enable public bodies to set SMART objectives for themselves, provide the Commissioner with evidence of compliance and provide incentives for business innovation.
- 4.2 Another often raised concern is around a lack of data and evidence at the appropriate scale in Wales. This applies from local data all the way to providing updates on emerging scientific knowledge and its significance for any particular public body in Wales. The Bill should provide clarity on whose responsibility it is to provide this advice.

**5. Whether there are any unintended consequences arising from the Bill;**

- 5.1 The architecture of the Bill is very complex. The duty sitting on public bodies is mainly to develop objectives which will contribute to meeting the goals in the Bill. There is a danger that the public bodies will focus their efforts on goals singly and therefore not challenge current practice and try to integrate deliver across all the goals (as Clause 8 asks). If they do try to integrate they will face the perennial problem of apparent conflicts between goals and between short and long term consequences. If the Bill (and subsequent guidance) is not clear on how to resolve these issues then the current situation will prevail where short term provisions will win and the environment will be given insufficient weight.
- 5.2 Additionally, a clear definition of what is meant by sustainable development is necessary to help in the interpretation of any apparent conflicts and to clarify the context for the decision making requirement in clause 8. So a weak duty and an unclear (or insufficient) definition will not drive any change from business as usual.

**7. the appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).**

- 7.1 There is some concern with regard to how long-lasting the goals will be, if Ministers are able to change them via subordinate legislation. For something so fundamental we consider that any changes should be made via a process which requires detailed consideration by the Assembly akin to that of primary legislation.

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<sup>7</sup> Part 5, Section 81 of the Climate Change Act (2008) states that "Welsh Ministers must from time to time publish a **climate change measures report**". In turn, a local authority in Wales must, in exercising its functions, have regard to any current climate change measures report.





**Wales Environment Link** is a network of environmental, heritage and countryside Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the Government and the environmental NGO sector in Wales. Its vision is to increase the effectiveness of the sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector.

The following WEL members support this document:

**Afonydd Cymru**

**Amphibian and Reptile Conservation Trust**

**Bat Conversation Trust**

**Butterfly Conservation Wales**

**Campaign for National Parks**

**Coed Cadw – Woodland Trust**

**Keep Wales Tidy**

**Llais y Goedwig**

**National Trust**

**Open Spaces Society**

**Oxfam Cymru**

**RSPB Cymru**

**WTW Wales**

**WWF Cymru**

# Item 5

Welsh Assembly for Wales

Environment and Sustainability Committee

WFG 17

Well-being of Future Generations (Wales) Bill

Response from Office for National Statistics (ONS)

Written evidence from the Office of National Statistics on the Well-being of Future Generations Bill

## Introduction

Thank you for the opportunity to comment on the draft Bill.

The Office for National Statistics (ONS) launched the Measuring National Well-being Programme in November 2010 with the aim to develop an accepted and trusted set of National Statistics to help people understand and monitor national well-being. Measuring national well-being is a long term development programme and the ONS is recognised internationally as playing a lead role in its development. One of the objectives is to see the transition of this work into the main-streamed business environment to ensure ongoing delivery of benefits; therefore ONS welcomes the Bill as an important innovation in meeting this goal.

ONS in developing measures of national well-being aims to ensure that information is reported in a consistent framework that recognises the three main pillars of the economy, environment and social (the draft Bill's three aspects of its aim to improve well-being); the four capitals (Physical, Natural, Human and Social); and the various domains (e.g. Health, Education, Where we live, Personal finance, etc), as well as the dimensions of Sustainability and Equity (see further comments below under Section 2).

The ONS, acting on behalf of the Government Statistical Service, is also supporting the development of the Post 2015 Sustainable Development Goals by providing statistical advice and comments and will assess the robustness, timeliness and relevance of the measures proposed. In addition, the ONS is now responsible for publishing the Sustainable Development Indicators.

The following comments concentrate on the definition of well-being and the related goals, targets and measures to reflect ONS's main interests.

### Part 1, Section 2 - Aim of public bodies to improve well-being

The aim '*of public bodies is to improve the economic, social and environmental wellbeing of Wales in accordance with the sustainable development principle*' highlights the 3 pillars that are used to gain a better understanding of overall well-being. However, care needs to be taken regarding the use and understanding of what 'well-being' refers to. It is often the adjective or prefix that denotes what well-being refers to - for example, national well-being, personal or individual wellbeing, physical well-being, etc. The Bill may need to clarify that well-being refers to national well-being (in this case, Wales) unless otherwise specified.

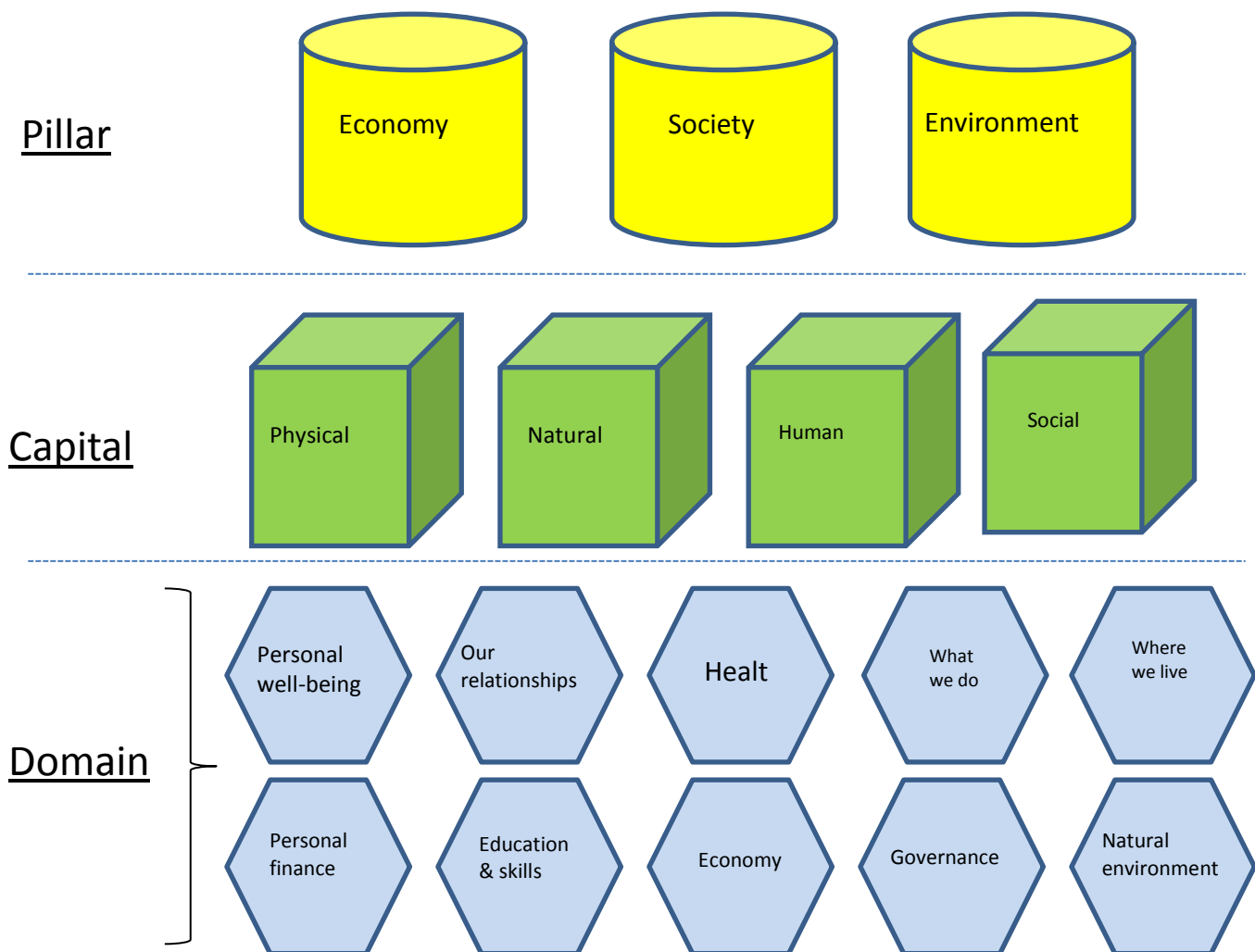
The Commission on the Measurement of Economic Performance and Social Progress Report (Stiglitz et al. 2009), known as the Stiglitz Report, has had a significant influence on international developments of well-being measures. The report identified the key dimensions of well-being to include health, education, social connection, political voice, unpaid household work, and the present and future condition of the environment. The Commission

noted that “all these dimensions shape people’s well-being and yet many of them are missed by conventional income measures.”

Traditional measures of progress such as GDP are increasingly considered an incomplete picture of the state of the nation. The Commission argued that no single measure can summarise something as complex as the well-being of the nation and any system of measurement must encompass a range of different measures. GDP only measures activity within ‘the market’ producing estimates of physical capital; however, much of what maintains and enhances well-being occurs outside of the market. The Commission further argued that applying a broader definition of wealth, to include natural capital, social capital and human capital, could provide a better understanding of national well-being.

Figure 1 presents a simple comprehensive framework for understanding and monitoring national well-being. It highlights the three main pillars of the economy, social and the environment (the draft Bill’s three aspects); illustrates the four capital stocks (ie Physical (produced), Human, Social and Natural); and the 10 domains currently used to monitor national well-being. The dimensions of sustainability and equity need to be further developed and considered as fitting this framework.

Figure 1. Three presentations of national



## **Section 6: Well-being goals**

The draft Bill proposes 6 high level well-being goals. An important element will be how these goals can be translated to targets and these targets monitored and measured (see also comments below related to National indicators). Should the Bill be more specific regarding how the goals relate to specific outcomes with clear time-bound targets (eg by 2025..)?

The draft Bill has an obvious relationship with the international development of the Post 2015 Sustainable Development Goals (SDGs) (see link here for more detail> <http://sustainabledevelopment.un.org/index.php?menu=1300>). Although the SDGs are not expected to be finalised until September 2015, should the Bill consider aligning the Welsh goals with those agreed at an international level?

## **Section 11: National indicators and annual well-being report**

The choice and use of a set of National indicators to monitor, measure and report on progress will be a critical part of the successful implementation of the Bill. Considerations about measurement must not be an afterthought for the Bill. It is important for policy makers to work closely with statisticians in developing a set of targets and indicators that are statistically robust and measurable.

It is also important that the indicators consider what is important, not just readily or currently available. It may be that new measures are required to monitor what is important and relevant for this work and relevant steps taken to develop these. Of course there may be cost implications.

The disaggregation of the National indicators will also be an important element. The Bill notes in Section 35(4) that an analysis must refer to any national indicators. It will be desirable that the National indicators selected are also consistently available at a local level.

It may be considered that to gain maximum acceptance and trust in the National indicators that they should be assessed by the UK Statistics Authority to obtain National Statistics status, if not already.

The ONS's well-being programme aims to provide an overview of wealth accounting, including the four capitals, as well as producing headline measures of national well-being and sustainability. The concept of comprehensive wealth is important as having a present day estimate of this wealth signals our future prospects for well-being and prosperity. In turn, the way in which this wealth is changing over time indicates how these future prospects are altering.

ONS already publishes Produced or Physical capital as part of the National Accounts and is continuing to develop and publish regular Human capital estimates as part of the measuring national well-being programme. Initial estimates of Natural capital were published in May 2014 and could be combined with these two capitals to further develop the first comprehensive wealth account for the UK. The ONS has also published a discussion paper on Social Capital on 18th July, thereby recognising the need to consider the economy, environment and social pillars to gain a fuller understand of overall well-being.

However, measurement of the capital stocks is at different stages, but as they mature it might be possible for them to eventually come together in the first comprehensive national wealth account. Growth or depletion of national wealth might in future provide an important headline national well-being metric.

The balance of depletion and investment determines the extent to which the stocks of produced, human, social and natural capital are maintained and highlights our ability to sustain the existing pattern of social and economic activity. GDP and our traditional measures of economic progress provide little indication of the sustainability of underlying activity and whether the well-being of current generations is being enhanced at the expense of future generations. ONS's well-being programme is helping to address this by progressing measurement of all four capital stocks.

## **Section 12: Future Trends Report**

The draft Bill notes that Ministers must publish a '*future trends report*'. Predictions of likely future trends in the economic, social and environmental well-being could vary considerably. There are differences between forecasts and projections and their related assumptions. It will be important in any report that these assumptions are clearly identified so that users of the report can interpret the results appropriately.

A definition of forecasting is the process of making statements about events whose actual outcomes have not yet been observed. Prediction is a similar, but more general term. Both might refer to formal statistical methods employing various amounts of time series, cross-sectional or longitudinal data.

Both qualitative and quantitative forecasting techniques can be used when analysing future trends. Qualitative forecasting techniques are subjective based, often based on the opinion and/or judgment of experts or survey respondents, and are usually used when past data are not available. Quantitative forecasting models are used to forecast future data as a function of past data.

As noted earlier, assumptions, particularly related to risk and uncertainty, are central to forecasting and prediction. It is generally considered good practice to indicate the degree of uncertainty attaching to forecasts.

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