



Wellbeing and Sustainable Development Bill

A response to the Scottish Government consultation by Scottish Environment LINK

February 2024

Introduction to Scottish Environment LINK

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 40 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Its member bodies represent a wide community of environmental interest, sharing the common goal of contributing to a more sustainable society. LINK provides a forum for these organisations, enabling informed debate, assisting co-operation within the voluntary sector, and acting as a strong voice for the environment. Acting at local, national and international levels, LINK aims to ensure that the environmental community participates in the development of policy and legislation affecting Scotland.

LINK works mainly through groups of members working together on topics of mutual interest, exploring the issues and developing advocacy to promote sustainable development, respecting environmental limits. This consultation response was written by LINK's Governance Group and Sustainable Economy Group and is supported by the members listed at the end of the response. Individual LINK members are also submitting responses, which will contain additional detail in specific areas.

Wellbeing and sustainable development

LINK members welcome this consultation and the debate/proposals it includes. Taking forward robust legislative measures to drive decision making that is in the true spirit of sustainable development and really contributes to wellbeing would put Scotland on the path to implementation of core principles it has often held high.

This consultation follows a number of other initiatives, to which LINK has responded, including the Scottish Government consultation on the [Review of National Outcomes](#) and Sarah Boyack MSP's consultation on a proposal for a Member's Bill related to [Wellbeing and Sustainable Development](#).

The content of our responses to those consultations should be considered as an integral part of our response to this consultation – and the Scottish Government's proposals arising from this consultation should take full account of the conclusions arising from the two earlier consultations.



Responses to consultation questions

Defining wellbeing

- **Is a statutory definition of ‘wellbeing’ required?**
- **Do you have any views on how ‘wellbeing’ can be clearly defined in legislation?**

The use of the term wellbeing in economic debates has a specific significance for environmental advocates since it provides a consensual goal of human development which contrasts with the assumptions which underpin conventional economics, which foreground increasing material consumption and wealth and tend to disregard distribution/equity and economic externalities like environmental damage and benefits. In particular it is central to some of the arguments against growth, as measured by GDP or GVA, being used as a key economic metric.

Ideally, wellbeing should be both better defined and that definition included in statute. However, unlike ‘sustainable development’ (see below), the term wellbeing does not, as yet, occur widely in statute and there is therefore less need for a statutory definition.

However, there is clearly a need for more consistency and better application of the concept set out in annex F of the consultation. For instance, there are 12 references to a ‘wellbeing economy’ in the 2021-22 Programme for Government and 15 references in the most recent, 2023-24 Programme for Government. However, this frequency of use also exposes a lack of clarity and an absence of any clear and consistent interpretation of the term. For instance, from these two Programmes for Government the phrase is used in a variety of settings and with various suggestions for interpretation, including:

“building a wellbeing economy which secures sustainable, inclusive growth for everyone, in all parts of Scotland”;

“a wellbeing economy: one that is environmentally sustainable, enables businesses to thrive and innovate, and tackles the social inequalities that have been exacerbated by the pandemic”

a wellbeing economy where good, well-paying, sustainable jobs are created and innovation flourishes – enabling us to reduce poverty and widen the tax base that our public services rely on”;

“a wellbeing economy that is fair, green and growing”;

“a wellbeing economy – an economy which meets the needs and aspirations of people and provides opportunities for all”.

All of these interpretations have elements that can be supported - but they also include elements that appear to be contradictory and/or undermine the principles of sustainable development. Given this absence of a clear, succinct definition of wellbeing, and its relative absence from the existing statute book, LINK does not view a clear definition in legislation as a priority. However, it is a priority that a clear definition and interpretation is developed – and then applied consistently across government. Without a definition which can guide decision-making processes, the part of the proposed bill which puts a duty on public bodies would be ineffective.

Thus, regarding a definition for wellbeing, LINK’s priority for legislation would be a statutory duty for Scottish Ministers to develop and publish a policy statement on wellbeing (including a definition and guidance on interpretation), together with a duty that, once approved, they and all public bodies would be required to act in accordance with the statement in carrying out their functions. The definition of wellbeing must be sharp enough such that acting in accordance with it is enforceable. Such guidance should set out the role of the National Performance Framework and National Outcomes in describing the Scottish Government’s ambitions for a Wellbeing economy and sustainable development – and the duty to prepare such guidance should reference this as required content.



Defining sustainable development

- **Is a statutory definition of ‘sustainable development’ required?**

Yes. The term ‘sustainable development’ occurs widely in existing legislation and its application/interpretation is subject to hugely varying approaches. This is addressed in Annex F of the consultation, but also explored in more depth in Sarah Boyack MSP’s consultation and in LINK’s response. The original definition in the Brundtland Report, which had ecosystems at its heart, has - over the years - been diluted and misinterpreted, with trade-offs between the three pillars a widely held interpretation. A clear definition, with environmental limits at its heart, backed up with guidance to aid interpretation, would create both a ‘level playing field’ and better application of existing/future legislation.

- **Do you agree with our proposal that any definition of sustainable development should be aligned with the common definition: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”?**

Yes. As outlined in Annex F of the consultation the concept of sustainable development originated in the UN World Commission on Environment and Development report, ‘Our Common Future’ in 1987 – going on to be reflected in international agreements arising from the Earth Summit in Rio de Janeiro in 1992. The definition proposed is that used by the ‘Our Common Future’ report – and although appropriate that it remains the basis, the definition should be enhanced to ensure that it aligns with the need to consider future generations - but moves away from the human-centric and is centred on environmental limits.

- **Do you have other views on how ‘sustainable development’ can be clearly defined in legislation?**

We suggest a definition that:

- Conveys the absolute nature of environmental limits;
- Retains the consideration of future generations whilst also supporting equity within generations; and
- Includes acknowledgement of the impact of our decisions on other parts of the world.

We suggest the following definition: Sustainable Development can be defined as the development of human societies based on fair shares of planetary boundaries, and which equitably supports the capability of present and future generations across the world to meet their needs.

It is also important that the definition does not exist alone – with no explanations or guidance to interpretation. Such guidance needs to refer to the [hierarchy and principles](#) in the UK Shared Framework for Sustainable Development¹ and explore the economic, social and environmental ‘needs’ of future generations and the impacts that decisions today can make. We would, therefore, propose that as well as specifying the definition, the legislation should also introduce a statutory duty for Scottish Ministers to develop and publish a policy statement on sustainable development (to provide such guidance), together with a duty that, once approved, they and all public bodies would be required to act in accordance with the statement in carrying out their functions, especially their budget responsibilities.

¹ This Shared Framework was endorsed at the time of publication, by the UK Government and all devolved administrations. While the UK Government has ceased to apply it, the Scottish Government has previously indicated that it remains committed to the ideas and principles set out in the framework.



Such guidance should set out the role of the National Performance Framework and National Outcomes in describing the Scottish Government's ambitions for a Wellbeing economy and sustainable development – and the duty to prepare such guidance should reference this as required content.

- **What future wellbeing issues or challenges do you think legislation could help ensure we address?**

This legislation could contribute to shifting the dial on how decisions are made about the type of developments proposed and supported. It would enable challenges to development decisions which would damage future collective wellbeing or environmental destruction; should prevent public bodies from supporting such developments; and ensure that debates about the economy include human/social development and environmental implications. It should contribute to policy coherence, by providing a 'gateway lense' to all decisions.

In acknowledging the impact of our decisions, in Scotland, on other parts of the world, Scotland can make a contribution to global wellbeing and environmental ambitions. For instance, recognition of this global impact should lead to a commitment to make our supply chains fair and sustainable. Inclusion of this aspect in the definition of, and guidance on, wellbeing and sustainable development should ensure that future legislation and policies drive measures for both the public and private sector to progress this agenda.

- **We are aware that the term 'sustainable development' has been set out in various legislation of the Scottish Parliament since devolution in 1999, and that careful consideration will need to be given to how any new definition will impact on these. What impact, if any, would the proposed definition have on other areas of legislation?**

The main issue to address in the process of "careful consideration" would be to ensure that pre-existing references to sustainable development are, if necessary, amended to ensure clarity that the term should be interpreted in accordance with the new definition and guidance. Should any of the pre-existing references include 'old' definitions or guidance, these should be removed. In addition, some pre-existing also uses the unhelpful (and, without interpretation, potentially oxymoronic) term of "sustainable economic growth"; this new legislation should be considered an opportunity to remove, amend or clarify such references and ensure they are consistent with the new definition and interpreted in accordance with the new guidance.

Strengthening duties for the National Outcomes and sustainable development

- **How could a legal duty be defined to ensure that public authorities uphold sustainable development and the interests of future generations?**

The legislation should introduce a statutory duty for Scottish Ministers to develop and publish a policy statement on sustainable development together with a duty that, once approved, they and all public bodies would be required to act in accordance with the statement in carrying out their functions, especially their budget responsibilities. The statement would provide guidance, mentioned above, and also set out the role of the National Performance Framework and National Outcomes in describing the Scottish Government's ambitions for a wellbeing economy and sustainable development,

The First Minister should be required to make an annual statement to Parliament regarding the government's record in improving the indicators for wellbeing and sustainable development. Tying this



reporting requirement to the annual budget process, which drives delivery of Scottish Government policies, would help deliver policy coherence. The Bill should, therefore, include a requirement for such a statement/report to be delivered at the same time as the budget statement and introduction of the annual Budget bill.

- **Are there specific areas of decision making that should be included or excluded from the Bill?**

All areas of devolved policy- and decision-making should be included (and, by extension, none excluded). This would, therefore, include all the responsibilities of Scottish Ministers and all public bodies carrying out devolved functions in Scotland. This should include any body carrying out functions of a public nature, including statutory undertakers (and, through procurement policy or grant conditions any body carrying out function wholly or mainly funded by the public sector).

For the avoidance of doubt, the above response includes matters related to the public finances and budgets, including taxation/revenue and all public expenditure.

- **What issues, if any, may result from strengthening the requirement to have regard to National Outcomes?**

LINK's views on this matter were set out in [our response](#) to the consultation on the review of National Outcomes in June 2023. That response should be considered the response to this question – and considered as an integral part of our response to this consultation.

Clarifying to whom the duties apply

- **Should any duty apply to the Scottish Government?**

Yes. Given the extensive responsibilities of Scottish Ministers across many policies related to wellbeing and sustainable development, the proposed legislation would be meaningless (and ineffective) if the duties did not apply to the Scottish Government.

- **Do you have any views on the range and type of organisations that any duty should apply to?**

All public bodies. It is hard to identify a public body that does not have some role or function in relation to matters that could advance (or hinder) movement towards a wellbeing economy and sustainable development. This should include any body carrying out functions of a public nature, including statutory undertakers (and, through procurement policy or grant conditions any body carrying out function wholly or mainly funded by the public sector).

The activities of the private sector are just as significant for wellbeing and sustainable development as those of the public sector and ideally expectations that major private investment projects should have regard to the National Outcomes should be established. In the meantime, public bodies should seek to influence corporations to agree to and act in accordance with wellbeing and sustainable development. It should be a principle adopted universally in Scotland.



Defining ways of working

- **Do you have any views on how we can better report the achievement of wellbeing objectives which supports clear accountability and scrutiny of public bodies in Scotland?**

To enable stronger accountability Ministers should be required to report regularly on progress towards the National Outcomes to Parliament, and Parliament should be giving ample time to scrutinise these reports. This should be complemented by independent assessment by the proposed Commissioner of Scotland's progress on wellbeing and sustainable development and on any evidence-based transgressions.

- **What additional steps are needed to ensure collaboration and working across boundaries?**
- **Do you have any views on whether any duty related to ways of working could create conflicts with duties currently placed on you?**

N/A – LINK is not a statutory or public body.

- **Do you have any views on the additional resource implications necessary to discharge any wellbeing duty in your organisation?**

N/A – LINK is not a statutory or public body.

Determining an approach for future generations

- **Should Scotland establish an independent Commissioner for Future Generations?**

Yes. Since the abolition of the Sustainable Development Commission (not at the instigation of the Scottish Government), there has been an absence of independent advice and scrutiny on the issue of sustainable development. The proposal for a Commissioner for Future Generations could address this gap – as well as provide similar functions in relation to a wellbeing economy.

As set out in [our response](#) to Sarah Boyack MSP's consultation, LINK supports the principle of establishing a Commissioner to champion sustainable decision making to help further our nation's collective wellbeing, but this support is subject to the need for considerably greater detail and clarity on how it will operate in practice. This greater clarity needs to address the question in relation to its status, powers and functions, as well as the interactions (overlaps and/or complementarity with inter alia Environmental Standards Scotland, the Climate Change Committee and the Scottish Human Rights Commission).

Ideally, LINK members believe that such a Commissioner should have the status of a Parliamentary Commissioner (to provide independence from the executive/public bodies); and, the powers to provide effective scrutiny and accountability (such as those available to the Scottish Information Commissioner or Environmental Standards Scotland). However, this will require consideration of the potential for overlap with existing commissions/commissioners. Such consideration need not result in more commissions/commissioners – the current role and powers of the Commissioner for Children and Young People might be integrated into that of the new Commissioner (albeit that the new officeholder/body would have considerably greater/wider role/powers).



Finally, while we recognise that any potential overlaps and/or complementarity with Environmental Standards Scotland must be considered – we consider that this should not result in any alteration to ESS' functions or powers.

- **In what ways could an independent Commissioner for Future Generations increase the accountability, scrutiny, and support for decision making?**

An officeholder or body established along the lines suggested above would complement the role of Parliament itself in providing accountability, scrutiny, and support for decision making. This would be both direct and indirect. In operation, the new Commission/er would provide independent and expert advice to, and scrutiny of, the Scottish Government and public bodies. However, it would also be available to provide independent and expert advice to Parliamentary Committees, thus enhancing their roles in this area. The Commissioner should have the power to scrutinise investment or spending decisions, in advance of implementation, for which there is plausible evidence that they may damage wellbeing or sustainable development.

- **Are there alternative ways we can increase the accountability, scrutiny, and support for decision making?**

None as effective as that proposed above.

This response is supported by:

Action to Protect Rural Scotland (APRS)
Badenoch and Strathspey Conservation Group Butterfly Conservation
Butterfly Conservation
Chartered Institute of Ecology and Environmental Management
Environmental Rights Centre for Scotland
Friends of the Earth Scotland
Froglife
Keep Scotland Beautiful
National Trust for Scotland
Nourish Scotland
RSPB Scotland
Scottish Wild Land Group (SWLG)
Scottish Wildlife Trust

For further information contact:

Dan Paris,
Advocacy Manager dan@scotlink.org



Scottish Environment LINK the voice for Scotland's environment

Registered office: 5 Atholl Place, Perth, PH1 5NE. A Scottish Charity No. SC000296

Scottish Environment LINK is a Scottish Company Limited by Guarantee and without a share capital under Company no. SC250899



LINK is a Scottish Charity (SC000296) and a Scottish Company Limited by guarantee (SC250899), core funded by Membership Subscriptions and by grants from NatureScot, Scottish Government and Charitable Trusts.

Registered Headquarters: 13 Marshall Place, Perth, PH2 8AH

Advocacy Office: Dolphin House, 4 Hunter Square, Edinburgh, EH1 1QW