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Welsh Government

## White Paper

# A Sustainable Wales Better Choices for a Better Future

Consultation on proposals for a Sustainable Development Bill

Date of issue: 3 December 2012

Responses by: 4 March 2013

## Overview

This White Paper sets out the Welsh Government's proposals to bring forward legislation to make sustainable development the central organising principle of the Welsh Government and Welsh public service organisations in Wales; and to create an independent sustainable development body for Wales.

## How to respond

The consultation responses form is available for completion at [www.wales.gov.uk/consultations](http://www.wales.gov.uk/consultations). Responses are welcome in either English or Welsh.

Responses to this consultation should be sent by e-mail or by post to the address below to arrive no later than 4 March 2013.

## Further information and related documents

Large print, Braille and alternate language versions of this document are available on request.

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## Data protection

### How the views and information you give us will be used

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.



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## Ministerial Foreword



As a Government we are committed to ensuring sustainable development is at the heart of everything we do. In these tough times we are facing not only great challenges but great opportunities. Our priority is to create jobs and help enable a more resilient economy, building a fairer more sustainable future for the people of Wales now and for generations to come.

We will do this by acting in the long term interests of the people of Wales, never losing sight of those factors that are vital to their

long term quality of life. Making better choices for a better future, we will focus on the social, economic and environmental well-being for people and communities, reinforcing our values of fairness and social justice and the importance of our rich culture.

We will build upon the very strong commitment to sustainable development that we already see across Wales. The Sustainable Development Bill will mark the next stage in our devolution journey, setting out in legislation how we will deliver a stronger governance framework for a sustainable Wales. It will set the strategic direction for sustainable development to ensure decisions taken demonstrate real outcomes. We will work within an international context to ensure Wales draws on best practice from around the world and from the Rio +20 outcomes.

We are already taking a more integrated approach and working for the long term through much of what we do. Our early years work brings parents, carers and educators together to give young people the best start in life, whatever their circumstances. This will help them make the best contribution to our society throughout their lives. Our 'arbed' programme improves the homes that are hardest to heat, delivering local jobs and skills through upgrading the places where people live whilst saving them fuel costs and tackling climate change. These are both examples that demonstrate sustainable development at its core.

By making every decision a better one we will build a fairer more sustainable future, giving us the opportunity to make Wales a better place for us and our children. Our ambition for Wales can only be achieved through organisations working together and involving the people of Wales in the choices that affect them.

This White Paper offers a way forward that places sustainable development as the central organising principle of the public service in Wales. I am confident that this will help ensure that the decisions we all make will be the right ones, meeting the needs of the present without compromising the prospects of future generations and delivering a better future for Wales.

A handwritten signature in cursive script, reading "John Griffiths".

**John Griffiths AM**  
**Minister for ESD**



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# 1. Introduction

## A different direction

1.1 Since the ground breaking duty in the Government of Wales Act put Sustainable Development at the heart of devolution, Wales has taken a distinctive path to development. In the time since devolution in 1999, sustainable development has grown in strength, with increasingly widespread recognition and growing numbers of successful examples of its application in all sectors.

1.2 The Welsh Government's *Programme for Government* reinforces the importance of sustainable development's place as the core principle in defining the best development path for Wales. In addition, it commits to ensuring that all the Government's policies and programmes reflect this central commitment to sustainable development.

1.3 This approach is demonstrated by the Government's focus on the long term, including the Welsh approach to education through investment in children's futures with support for early years and university tuition fees. It also underpins the Welsh Government's commitment to investing in the nation's health, with free prescription charges and the legislation on single use bags further signalling commitment to the long term, as well as a move away from a 'throw-away' society. It can also be seen in the integrated approach to delivery within public service, characterised by collaboration between service providers and a focus on giving people and communities a voice in how their services are provided.

1.4 However, the Welsh Government is committed to further strengthening sustainable development's place in the Welsh constitution by bringing forward legislation to embed sustainable development as the central organising principle of the wider public service in Wales. This White Paper sets out the proposed way in which the legislation will deliver this.

## Better 'Sustainable' Governance for Wales

1.5 The Welsh Government is focused on the development of a fairer society, in which every person is able to make the most of their abilities and contribute to the community in which they live. The Programme for Government sets out the Welsh account of sustainable development, namely:

*"an emphasis on social, economic and environmental wellbeing for people and communities, embodying our values of fairness and social justice. We must also look to the longer term in the decisions we make now, to the lives of our children's children as well as current generations."*

1.6 Enshrining sustainable development as the central organising principle, not just of the Welsh Government, but of the wider public service in Wales, will further reinforce this commitment. The aim is to ensure that in pursuit of a better long term future, the best possible decisions are made that achieve the maximum possible long term benefits to the economic, social *and* environmental wellbeing of Wales, within environmental limits.

1.7 The aim of the Sustainable Development Bill is to build on the achievements since devolution and strengthen the governance in Wales to achieve this.

## **Sustainable Development**

1.8 Sustainable development grew out of the need for a model of development that was not solely focused on economic growth - in order to respond in particular to growing environmental awareness. The term 'sustainable development' came to prominence following the publication of the United Nations Brundtland Commission's report in 1987, which stated that:

*'Humanity has the ability to make development sustainable - to ensure development that meets the needs of the present without compromising the ability of future generations to meet their own needs.'*

1.9 In Wales, sustainable development has a statutory footing as the Government of Wales Act contains a duty that requires the Welsh Ministers to make a sustainable development scheme. The scheme must set out how the Welsh Ministers propose, in the exercise of their functions, to promote sustainable development. The current scheme, *One Wales: One Planet*, sets out the Welsh Government's definition of sustainable development as follows:

### **Sustainable development in Wales**

*Sustainable development means enhancing the economic, social and environmental wellbeing of people and communities, achieving a better quality of life for our own and future generations in ways which:*

- *promote social justice and equality of opportunity; and*
- *enhance the natural and cultural environment and respect its limits – using only our fair share of the earth's resources and sustaining our cultural legacy.*

*Sustainable development is the process by which we reach the goal of sustainability.*

1.10 As well as encompassing economic and environmental wellbeing and the wellbeing of future generations, the definition also reflects the vital importance of social justice, equality and Wales' rich culture. The Welsh Government's delivery on sustainable development therefore goes hand-in-hand with delivering in its Strategic Equality Plan. In addition, it was within the current sustainable development scheme that the Welsh Government made the commitment to make sustainable development its central organising principle. That is, for sustainable development to be *how* the Welsh Government tackles the economic, social and environmental challenges Wales faces, in order to identify the best development path for the future.

## **EU and International Context**

1.11 Following on from the Brundtland Commission, sustainable development has proven to be a resilient concept at the international and particularly the European



level. Sustainable development remains a fundamental objective of the European Union and its Sustainable Development Strategy sets out how the EU will deliver its commitment to meet the challenges of sustainable development, in order to achieve a continuous long-term improvement of quality of life. The strategy recognises the need to move towards a better integrated approach to policy making, and the approach is based on a set of key principles of sustainable development, which include social equity and cohesion, economic prosperity, intra and intergenerational equity, involvement of citizens and policy integration.

1.12 At the international level, in June 2012 governments across the world met in Rio de Janeiro, Brazil for the Rio+20 United Nations Conference on Sustainable Development. At the conference a consensus emerged that UN Sustainable Development Goals were needed to focus and integrate future global development. In addition, the conference agreed *The Future We Want* outcomes document, which set out a range of long term outcomes and commitments to advance sustainable development. *The Future We Want* makes clear the need to strengthen the institutional framework for and integrate the three 'dimensions' of sustainable development in decision making, recognising that that effective governance at the national, regional, and local level is critical for sustainable development. The proposals contained in this White Paper to improve the governance for sustainable development in Wales are therefore aligned with those identified needs. In addition, the Welsh Government is committed to playing its full part in taking forward the proposed UN Sustainable Development Goals.

1.13 Since devolution, Wales has played a part in international discussions and in building international capacity and learning around sustainable development. Wales cannot of course achieve future sustainability in isolation and exchanging knowledge and good practice, benchmarking and working in partnership internationally is an important part of the Welsh Government's approach. The involvement as a founder member of the international Network of Regional Governments for Sustainable Development (nrg4SD) is an example that reflects this commitment. Further examples include the successful Wales for Africa programme and the commitment to Education for Sustainable Development and Global Citizenship. At Rio+20, the Welsh Government also committed to declarations on working towards a 'Clean Revolution and the Green Economy' and a 'New Paradigm for Sustainable Development and Poverty Eradication'. Both declarations demonstrate the leading role that smaller countries like Wales can play.

### **The role of Welsh public services**

1.14 Sustainable development aligns with the fundamental purpose of the public service and the organisations providing public services are therefore a critical part of the institutional framework for sustainable development in Wales. The public service also has a major influence, as community leaders, service providers and regulators setting the framework for local and regional development and as key employers. Public service organisations also face a series of challenges. Demographic and technological changes have increased the demand and the cost of providing services. These changes, coupled with the financial challenge now facing public services, mean that there is a need to strengthen the way in which those services are delivered so that they become more effective in improving outcomes for people

in Wales. The Welsh Government is already supporting this change through public service reform and the proposals in this White Paper will help to strengthen the role that organisations providing public services in Wales can play in achieving their outcomes in a sustainable way.

## **Changing the current system**

1.15 Whilst there has been clear progress in embedding sustainable development since devolution, the independent effectiveness reviews, international best practice and learning and development since devolution highlight that improvements can be made. The evidence shows that there is a need to ensure consistent application, further improve understanding and more fully embed sustainable development within governance and decision making.

1.16 The Welsh Government has consulted extensively on the proposal to legislate for sustainable development through the discussion paper published in November 2011 and the subsequent consultation on initial proposals for the Sustainable Development Bill in May 2012. Views were sought on the approach to the new duty; the role and functions of the new sustainable development body; the barriers to taking more long-term joined-up decisions; evidence of sustainable development in action; and, the need for a definition of sustainable development. The proposals in this White Paper have drawn on the views expressed by stakeholders in response to the consultation and from ongoing engagement.

1.17 The fundamental elements on which the Welsh Government is proposing to bring forward legislation, to strengthen the governance framework for sustainable development, are:

- *A new duty* - a stronger duty that requires specified public service organisations to embed sustainable development as their central organising principle;
- *Support* - establishing an independent body on a statutory basis to support organisations to embed sustainable development and join up in working towards the improved wellbeing of Wales;
- *Implementation* - through a range of actions which both strengthen the governance for sustainable development and support the change to deliver the outcomes needed; and
- *Accountability* - reporting and scrutiny arrangements to ensure that sustainable development is fully embedded within organisations.

1.18 In bringing forward this White Paper, the Welsh Government is keenly aware that this must be done as part of a wider package of measures to empower and drive positive change - it must allow for flexibility and innovative Welsh solutions, whilst avoiding the creation of additional bureaucracy. It is also not a 'tick box' exercise and in order to truly embed sustainable development it is more than a cross-cutting theme. As the central organising principle, it is the framework through which the public service can deliver a better future for Wales and how it can secure long term economic, social and environmental wellbeing.

# A Governance Framework for Sustainable Development

## 2. A Sustainable Development Duty

2.1 This chapter sets out the proposal to introduce a new duty on the Welsh public service. The duty will require that sustainable development be embedded within strategic decision making processes and that organisations clearly identify the outcomes that they are working to. This will strengthen the governance framework in Wales in relation to sustainable development in order to embed it as the central organising principle and secure better decision making related to clear outcomes that improve the wellbeing of Wales.

### Background

2.2 In working to improve Wales' wellbeing and secure future sustainability, the need to create long term jobs, tackle poverty, ensure equality of opportunity, tackle climate change and live within our means must be addressed in unison. In order to achieve this, public sector organisations must ensure that in the way decisions are taken, the implications for long-term wellbeing and the economic, social *and* environmental dimensions are thought through. Difficult decisions will have to be made, but sustainable development provides the ability to tackle these issues in a consistent and integrated way to secure the best outcomes for Wales.

2.3 The aim of the proposals within this White Paper is to truly embed that consideration at the centre of decision making, whilst creating a framework that will allow for innovation and the development of tailored solutions by the Welsh public organisations.

### (i) The central organising principle

2.4 The key elements of sustainable development as a central organising principle are:

- a clear focus on *what* the organisation is seeking to deliver in support of the future wellbeing of Wales – the 'Outcomes'; and
- ensuring decisions taken on *how* the outcomes can best be achieved are fully informed by consideration of the effect on economic, social, environmental and long term wellbeing.

2.5 In this way, it relates to the way in which organisations make their strategic decisions to ensure that the best possible decisions are taken. The duty is therefore not about creating an extra layer of bureaucracy or imposing extra burdens but putting in place a better governance framework for Wales founded on sustainable development principles.

2.6 The Welsh Government believes that placing a stronger sustainable development duty on not just itself, but also the wider devolved public service, will

help to shape and improve decision making and secure core sustainable development principles at the heart of Wales' constitutional framework. In doing so, it will provide a clear framework and promote improved understanding as well as consistency and coherence in its application.

## **(ii) The nature of the duty**

2.7 In developing the proposed approach to the nature of the duty, the Welsh Government has drawn from the key principles within the Rio +20 outcomes document; international examples of good practice; EU Sustainable Development Strategy, the draft guiding principles outlined by the European Council; the UK Shared Principles; and those underpinning the Welsh Government's Sustainable Development Scheme.

2.8 The Welsh Government also sought views on the different options for the duty by presenting four options: a behaviours approach focused on key sustainable development principles; an objectives approach; a combination of behaviours and objectives; or, a single sustainable development proposition. The outcome of the consultation was that overall, stakeholders were of the view that a combination of the behaviours and objectives approach should be implemented through the Bill.

2.9 The Welsh Government therefore proposes that the duty should both drive the application of the key principles of sustainable development, as well as ensuring that there is clarity in relation to the outcomes sought.

## **Integration and working across boundaries**

2.10 Securing Wales' long term wellbeing necessitates the joined up consideration of economic, social and environmental wellbeing, together with that of future generations.

2.11 To ensure that this integrated approach is driven by the duty, it is proposed that the consideration of the effect on the economic, social *and* environmental wellbeing of Wales will be a fundamental requirement of the duty, so that decisions are informed by an appreciation of the likely effects on each and the integration between them.

## **Long term thinking and a focus on prevention**

2.12 As reflected in the responses to the consultation, the principle of long-term thinking, a focus on prevention and the impact on future generations are also key components of sustainable development. Considering the long term logically leads to a focus on prevention and the early interventions that can most effectively generate long term benefits. To ensure such consideration is embedded by the duty, it is proposed that the consideration of the long term wellbeing of Wales is a requirement and that the needs of future generations, long term and preventive measures are emphasised within this approach.

## **Engagement and involvement**

2.13 Government and the wider public service community cannot find solutions to the challenges faced alone. Working in partnership with stakeholders is crucial and effective engagement is needed to achieve this. The Welsh Government has endorsed the National Principles for Public Engagement as an overarching set of principles aimed at Public Service organisations which have already been endorsed by a large number of public sector organisations.

2.14 It is also vital that, in meeting the aim to fully embed sustainable development whilst avoiding additional burden, the proposed legislation works with the legislative requirements that already exist. This includes for example existing statutory duties and the statutory sector schemes within the Government of Wales Act. It is therefore not proposed that an additional legislative requirement in relation to engagement be incorporated into the sustainable development duty. However, the Welsh Government will continue to promote the National Principles as the standard of engagement that organisations delivering devolved public services should meet. It is also proposed that the independent sustainable development body will have a vital role in providing support and guidance on this key principle.

## **International scope**

2.15 The strategic decisions taken by Welsh public service organisations have impacts that extend beyond the borders of Wales. This is reflected in the Welsh Government's Climate Change Strategy and through the use of the Ecological Footprint as one of the five headline sustainable development indicators for Wales. Equally, the actions of others outside Wales have an impact on the economic, social and environmental wellbeing of Wales. 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.

### **(iii) Defining sustainable development**

2.16 In proposing a new sustainable development duty, the Welsh Government recognises the need, stressed by stakeholders in response to the consultation, for clarity in relation to what is meant. The Welsh Government's definition of sustainable development is set out in chapter 1, but equally the Welsh Government acknowledges the detailed understanding and interpretation of sustainable development has evolved over time.

2.17 In setting out the nature of the duty above, the Welsh Government proposes to follow the practice elsewhere, where the overarching aspects of sustainable development are set out on the face of legislation. The approach preferred by other international examples is to use the Brundtland definition of sustainable development. In so doing, the Welsh Government believes that it is important to clearly set out the economic, social, environmental and long term components of

sustainable development. Furthermore, it is proposed that such a definition would be further supplemented by statutory guidance accompanying the legislation. Importantly this would also be further supported by existing legislative requirements and proposed legislation within the Government's legislative programme that define key components of economic, social and environmental wellbeing.

2.18 In this way, sustainable development is at the heart of not just the proposals for the Sustainable Development Bill, but also the Welsh Government's wider proposals for legislation. The role of the Sustainable Development Bill is therefore to put in place the framework for sustainable development, which will also crucially act to integrate existing and future legislation and also be flexible enough to react to future needs.

#### **(iv) Delivering outcomes**

2.19 The Government recognises that it is not just the quality of the decision making process that will embed sustainable development. There is also a fundamental need to ensure that there is a clear focus on what the public service organisations are seeking to deliver, in support of the future wellbeing of Wales. To drive the change needed to embed sustainable development, there must be a clear relationship between the strategic decision making processes within the public service and the outcomes to which the organisations are working to, reflecting current best practice.

2.20 However, as highlighted by responses to the consultation, imposing a single proposition or specific objectives through legislation has significant difficulties. Responses emphasised the need for organisations to be given the flexibility to identify the most appropriate solutions for their particular circumstances and for the framework to be adaptable to future learning.

2.21 In order to ensure that there is a clear link between decision making processes and the outcomes for Wales, it is proposed that the legislation will include a requirement for organisations to have clearly set out the outcomes that they are working towards. However, in order to ensure the required flexibility emphasised by respondents to the consultation, the legislation will not dictate the detail of the outcomes that each organisation should be working towards.

2.22 In putting in place a requirement for outcomes, there is also a need to ensure that there is a way of measuring progress towards them. Indicators that monitor progress towards the outcomes are therefore key, and there is a clear expectation that such a system will be in place. This will ensure that there are measures of progress that demonstrate how strategic decisions contribute to outcomes that improve the wellbeing of Wales. This for example can be seen in the Welsh Government's approach to the delivery of the Programme for Government and the approach to integrated planning outlined in below.

#### **(v) Scope of the Duty**

2.23 In defining the scope of the proposed duty, the aim is to ensure that it has a practical effect without becoming a tick box exercise or adding bureaucratic burden.

The consultation paper expressed a preference for this to be secured by capturing the high level decisions that have the greatest influence over organisational behaviour. Many respondents supported this approach, but in doing so stressed that the overriding priority was the extent to which the approach would change behaviour across the public sector and truly embed sustainable development. In order to do so, a key focus must be on improving how decisions are made. The process through which decisions are taken may include a variety of stages that are either voluntary or required by law, such as evidence gathering, options appraisal, consultation, and impact assessments. It is therefore proposed that the duty should apply to the strategic decision making processes rather than to specific high level documents in order to fully embed sustainable development.

### **Strategic decision-making processes**

2.24 Each organisation will have its own detailed processes and systems for decision making and it is a core part of the approach that organisations are able to find the solutions that are best suited to their circumstances. It is therefore not proposed that the legislation will be used to prescribe the way in which decisions are made and the aim is that the duty will apply to those decision making processes that have a key strategic role in contributing to sustainable development.

2.25 It is therefore proposed that the duty will focus on the policy and corporate planning processes as these are the processes that are focused on the delivery of an organisation's outcomes and therefore, those which will be most effective in embedding sustainable development. This approach will avoid adding additional bureaucracy as it is focused on the fundamental processes that guide the operation of an organisation rather than adding an additional process within them. It would include for instance, decision making processes that lead to corporate plans and corporate strategies. It is also proposed that it will include collaborative strategic planning and links to the intention to strengthen and clarify the statutory role of integrated planning set out below.

2.26 The duty would also apply to the policy process within an organisation and although many stakeholders wanted to see budgetary and procurement decisions specifically caught by the duty, it is the Welsh Government's view that focusing on the strategic decision making processes that guide and are implemented through the budgetary and procurement processes will better ensure the intended effect. In this way, the duty would for example apply to the decision making process that is used to develop an organisation's procurement policy, ensuring that economic, social, environmental and long term wellbeing have informed the decision making process.

2.27 The intention is not to prescribe the detailed processes that should be in place, or what changes need to be made to existing processes. It is also not the intention to apply the duty to the decisions taken, but to ensure that sustainable development has informed the strategic decision making processes leading to them.

### **(vi) Reporting**

2.28 Organisations should be transparent and accountable in the way that they apply sustainable development as the central organising principle. In order to be in

line with the aim of fully embedding sustainable development, it is proposed that the mechanism should be through their existing reporting arrangements rather than adding an additional, discrete reporting framework. To strengthen this requirement however, it is proposed that the legislation will place organisations subject to the duty under an obligation to demonstrate compliance through their existing reporting arrangements. In doing so, the expectation will be that organisations will be reporting on at least an annual basis.

2.29 To assist organisations in reporting against the duty, the Welsh Ministers should be given the power to issue statutory guidance, to reflect any reporting standards and best practice considered relevant and to ensure coherence and consistency with existing reporting arrangements. Organisations subject to the duty would therefore be required to have regard to the guidance issued by Welsh Ministers. As outlined below, the independent sustainable development body will also have a key role in supporting organisations to work across organisational boundaries and integrating their approach to gathering evidence and joining up their evidence base. The body will also play a key role in supporting organisations to fulfil their reporting requirements.

2.30 It will be important for organisations to ensure that the strategic decision making process to which the duty applies is supported by evidence. However, given that there are already systems in place and statutory requirements to collect evidence in order to inform decisions, an additional requirement to collect evidence is not proposed. However in order to demonstrate compliance within existing reporting regimes, the organisations will need to draw on evidence that reflects economic, social, environmental and long term aspects.

#### **(vii) The Sustainable Development duty and collaborative working**

2.31 The Sustainable Development duty will apply to specific organisations. However increasingly, public service providers are required to work together at both local and regional levels in order to achieve shared outcomes. This can take a number of forms such as joint planning, co-ordination of services, co-location of teams, sharing of personal information, shared systems and services, and pooled budgets. This collaboration is particularly important in working to achieve shared outcomes, which is at the heart of a sustainable development approach. Effective collaboration across public services is also essential to achieve the focus on sustainable development principles such as prevention and early intervention, when early signs of harm or additional need should trigger collective action by public service organisations.

2.32 At the local level, planning for shared outcomes is now done by Local Service Boards through single integrated plans, which will be in place in all areas by April 2013. Their key characteristics are that they are strategic planning tools which are intended to cover the full range of social, economic and environmental outcomes for an area. They are based on an analysis of a wide range of evidence shared across the public services. They are outcomes focused, subject to intensive engagement with citizens and communities and must be approved through the corporate approval processes of the LSB member organisations. Typically, these will include the local authority, health, police, the third sector and others. The plans are



meant to address in particular the needs of vulnerable people and disadvantaged communities and to move resources to prevention and early intervention.

2.33 In order to ensure that this form of collaborative working is subject to the duty and that it is an effective driver of public service reform, the Welsh Government will explore legislating through the Sustainable Development Bill to put the single integrated planning framework on a statutory footing. It is currently governed by a number of pieces of legislation, but placing it within this Bill will simplify and rationalise the current legislative framework and clearly define its place within the governance framework being created to embed sustainable development. The Welsh Government considers the simplification of the local strategic planning system, through integrated planning, will further embed sustainable development at the heart of public service collaboration. It will also give local partners the simplicity, clarity and tools they need to improve their communities.

#### **(viii) The organisations subject to the duty**

2.34 Many of the public sector organisations in Wales are already taking positive steps to implement sustainable development. However the Welsh Government believes that a new statutory duty on public sector organisations will consolidate progress made by more progressive organisations, encourage other organisations to build capacity and also promote consistency of application in response to the lessons learned since devolution. This will further improve the effective governance of the public sector in Wales, enshrining sustainable development at the centre of the constitution and providing a wider network for sharing good practice, supported by a statutory sustainable development body.

#### **Selection of the organisations**

2.35 The organisations to which it is proposed that the duty will apply have been selected on the basis that their remit or functions have the greatest impact on the economic, social and environmental wellbeing of Wales, and those who have the strategic policy and corporate planning functions. It is proposed that these organisations will be listed on the face of the Bill.

2.36 It is not however proposed that the sustainable development duty is extended to advisory bodies, tribunals and inspectorate bodies as they do not have executive functions and are not strategic decision makers. Whilst this means that the new sustainable development body itself would not be captured by the duty, it is intended that there will be a clear obligation that it acts in accordance with the principles enshrined by the duty in order to demonstrate leadership in embedding sustainable development.

2.37 It is proposed that the legislation that would allow Welsh Ministers the power through secondary legislation to add, amend or remove entries on the list to ensure the flexibility and future proofing needed. In doing so however it is intended that there would be a requirement to consult formally on any proposed changes to the list of organisations subject to the duty. This power would specifically exclude investigatory or regulatory bodies and tribunals from the scope of this power so as to be consistent with its intended scope.

**Table 1 - Organisations proposed to be subject to the duty**

- Welsh Government
- Natural Resources Wales
- National Library of Wales
- National Museum Wales
- Sport Wales
- Arts Council of Wales
- Local Authorities
- Fire and rescue authorities
- National Park Authorities
- NHS Trusts
- Local Health Boards
- Higher Education Funding Council for Wales
- Higher Education Institutions
- Further education corporations
- Registered Social Landlords
- Town and Community Councils

**(ix) Impact on the current sustainable development duty**

2.38 The Welsh Government's proposal for a duty on the public sector in Wales, that embeds sustainable development as the central organising principle, also extends to the Welsh Government itself. In order to deliver the consistency of approach and enshrine the new duty's position within the constitutional framework of Wales, the Welsh Government's preference is that this new, stronger duty will be placed upon the Welsh Ministers within the Government of Wales Act. This would replace the existing duty in section 79 to promote sustainable development (through a scheme), with the new duty which will require the Welsh Government to consider the economic, social, environmental and long term wellbeing of Wales within its strategic decision making processes.

2.39 The National Assembly for Wales however does not currently have the legislative competence to amend the relevant section of the Government of Wales Act. The Welsh Government has therefore made a request for the extension of the Assembly's competence for this purpose to the UK Government.

### **3. An Independent Sustainable Development Body**

3.1 This chapter sets out the Welsh Government's proposals for an independent sustainable development body for Wales. Given the change needed across the Welsh public sector there will be a greater need for mechanisms to support organisations. In addition to the proposals for accountability (detailed in Chapter 5), and action on implementation (set out in Chapter 4) there is a fundamental need to ensure that there is high quality support and guidance available to drive the change and provide a key integration role.

#### **(i) Role and functions**

3.2 The proposals for the new body have drawn on the Welsh Government's experience of the Sustainable Development Commission (SDC), and the input of the Commissioner for Sustainable Futures. In addition, we have reflected the key features of national sustainable development councils identified at the Rio +20 conference, namely the need to have high level cross sector representation; be independent and strong enough to be critical of Government when needed; have responsibility for recommending and monitoring key indicators of progress; be focused on problem solving; bring an interdisciplinary approach and enable joint action from across sectors; ensure strong civil engagement to underpin its role; and be established for the long term with stable resources.

3.3 The Welsh Government consulted on possible models for the body, for example in acting as an ombudsman serving citizens, enforcing rights and dealing with specific case work or scrutinising and holding organisations providing public services to account on sustainable development. Responses emphasised the need for the body's role to provide support, through expert advice and guidance, recognising that there was a need to develop a knowledge base on how public organisations can embed sustainable development as the central organising principle.

#### **(ii) Supporting**

3.4 The overall purpose of the new body is focused on supporting organisations to embed sustainable development as their central organising principle and facilitate joint working and collaboration within the public service and wider Welsh society to achieve that aim.

3.5 As set out in Chapter 5, embedding accountability within the existing framework for public services in Wales is more aligned with the aim of truly embedding sustainable development as the central organising principle. The Welsh Government therefore proposes that the role of the body should be to provide added value in supporting the change and facilitating integration in the public service in Wales. In doing so it will play a key leadership role for sustainable development and act as an independent advocate for sustainable development.

3.6 In providing this support, the Body should be able to constructively challenge organisations where appropriate to improve their embedding of sustainable development as their central organising principle. The body will play an important

convening role to support collaboration between organisations, emphasising an integrated and collaborative approach to sustainable development by the Welsh public service. In addition, the Welsh Government recognises the continued need for an independent advocate for future generations which is drawn from international best practice and a key aspect of sustainable development. It is proposed therefore that the body will play a key role in this regard through the production of a report on behalf of future generations that would be laid before the National Assembly for Wales.

3.7 It will be for the body to determine the best way to deliver these core functions. This may include the use of relevant case studies, research and overarching progress reports, aimed particularly at strategic levels. In doing so the body will need to take into account the statutory guidance published by the Welsh Government.

3.8 In addition to the public service, the body should also play a role in providing this support to other organisations in Wales. This will further ensure that the emphasis is not on the public service in isolation and promote the sharing of information and good practice between sectors. In this way, the body will work to make a tangible improvement to the economic, social and environmental wellbeing of people in Wales and the wellbeing of future generations.

3.9 The tools that the body will use will need to be developed in parallel with its development of its role. It would be inappropriate for the Welsh Government to stipulate on the face of the Bill or in guidance the methods it should use as this may stifle its independence and capacity to innovate. Allowing organisations to find solutions that are right in their circumstances is a vital principle in the general application of the duty and this should apply similarly for the body in how it advises, guides and supports public service organisations.

### **Cross-sector collaboration and sharing expertise**

3.10 The capacity for a relatively small body to support the range of organisations delivering public services across Wales will be challenging. This further strengthens the key focus on the body's role in bringing together public sector organisations and using their shared capability as it will need to draw upon other sources of expertise in order to provide assistance across the full scope of sustainable development.

3.11 The Body should also draw on international best practice and expertise and knowledge from outside of Wales. This might be at a UK, EU or international level. The body will also be expected to draw on contacts from these sources so that it can provide the best possible advice, guidance and support to public service organisations. In a similar vein, there are a number of third and private sector organisations that have developed effective mechanisms to deliver sustainable development and the body should also seek to apply good practice from these sources.

### **(iii) Policy development and advice**

3.12 The responsibility for policy on sustainable development rests with the Welsh Government and these proposals will maintain this position. However, in the past the Sustainable Development Commission and currently the Commissioner for Sustainable Futures have been acted as key advisors and contributors to policy development and it is anticipated that, in supporting the Welsh Government, the new body will continue this role.

3.13 It is also envisaged that the body may extend support, advice and guidance to the wider public sector and other organisations where there are opportunities for embedding sustainable development. As well as advice, the body will of course need to offer constructive independent challenge to organisations in supporting their embedding of sustainable development. This should not however duplicate the role that existing audit bodies will provide in the accountability framework for sustainable development.

### **(iv) Composition**

3.14 The Welsh Government proposes that the body should be led by a Commissioner, supported by a secretariat and support staff that demonstrates the interdisciplinary nature of sustainable development and the need to focus on integrating the economic, social and environmental and long-term wellbeing. A single Commissioner heading the organisation provides a clarity and focus to the work of the body. Such an individual can act as a figurehead and in representing the body and provide the leadership needed to drive the Body's work. However, given the breadth of sustainable development, the Commissioner will require assistance which could for example be delivered through an advisory panel, who could advise with regards to key aspects of sustainable development in Wales.

3.15 A set of ten key principles has been drawn up from the Welsh Government Sponsored Bodies Framework Document to help define good relations between Welsh Government Sponsored Bodies and the Welsh Government. These have been recognised as an example of good practice and it is proposed that these principles be applied to govern the relationship between the Welsh Government and the body.

3.16 The aim to embed sustainable development as the central organising principle across public service in Wales means that maintaining expertise relevant to all aspects of within a single body is unrealistic. Its main value will therefore be in its capacity to add value and crucially to join up organisations, sources of evidence and best practice in order to support the implementation of the duty.

3.17 The body's core group of staff or experts should however reflect the key components of sustainable development. Maintaining this core focus will assist the body in prioritising its work within this clearly defined scope.

## **(v) Independence**

3.18 The Programme for Government commits the Welsh Government to creating an independent sustainable development body for Wales. This will be secured through the work programme, its ability to make representations and the processes around appointment and removal of members.

### **Work programme**

3.19 It is important that the body has the flexibility to find solutions that are right for its circumstances through its work programme. Experience of sponsorship of the Sustainable Development Commission (SDC) has been drawn upon in considering how to ensure the body is independent. Following this experience, it is proposed that the strategic priorities would be agreed independently of Ministers, but the detail of how they are implemented in a particular year (and the associated funding commitment) would be agreed by the Welsh Government. In relation to the SDC, this allowed for the Welsh Government to commission it to undertake specific items of work that reflected government priorities, whilst allowing the SDC the flexibility also to undertake work which it considered was important.

3.20 The body would therefore develop its work programme and strategic priorities independently from the Welsh Government before being submitted to Welsh Ministers for approval. However, there should be a degree of Ministerial agreement to ensure that the outcomes supported by the body are linked with those of the Government; to provide an appropriate financial audit trail to govern the proper use of public funds; and, to give assurance that the outcomes for the body are undertaken with the authority given by Ministerial approval.

### **Making representations and providing advice**

3.21 In supporting the change needed the body will need to have the powers to make representations, as it sees fit, on issues related to sustainable development within its remit. This would be consistent with the arrangements for other Welsh Commissioners. In doing so it should draw on issues arising in the accountability on sustainable development and through the discharge of its functions.

### **Appointments**

3.22 The Welsh Government has considered the appointments processes used for the existing Welsh Commissioners for the Welsh language, Older People and Children as the basis for the new body. Each is appointed by the First Minister based upon the recommendations made by an appointments panel, following an open recruitment exercise. This is a tried and tested method that can be relied upon to treat candidates fairly and consistently.

3.23 There is also uniformity in how the Commissioners can be removed from office. This will normally be because of a wish to end their period of appointment, where misconduct is evident, or in cases of mental or physical ill health. It is only in these circumstances that the Welsh Government would wish to see the

Welsh Ministers involved in the appointments process to ensure that individuals do not feel inhibited in criticising the Welsh Government for fear of losing their post.

3.24 The Welsh Government will apply the Public Appointments process and a recommendation from an expert panel to Welsh Ministers to determine the appointment of the body's Commissioner.

#### **(vi) Reporting arrangements and representations**

3.25 To ensure transparency and accountability of the new body to the Welsh Ministers the new body should produce an annual report on its activities for consideration by the Welsh Ministers and laid before the National Assembly for Wales. This should include information on how it has fulfilled its functions and its views on, or representations about, the mainstreaming of sustainable development as the central organising principle in Wales, with a particular emphasis on the Welsh public service.

3.26 The Welsh Government believes the new body could play an important role in providing an independent view of the progress being made in Wales to sustainable development. It should produce from time to time, but not less frequently than once every five years, a report and progress on sustainable development in Wales.

3.27 Laying both reports before the National Assembly for Wales will demonstrate a commitment to transparency and accountability in reporting processes.

#### **Relationship with the Auditor General Wales and other audit bodies**

3.28 The proposals to incorporate sustainable development within existing audit arrangements will provide an important source of information and detail on the degree, and nature, of compliance with the sustainable development duty. The evidence gathered through this process will be valuable to the body should it wish to:

- report more broadly on Wales' progress to becoming a more sustainable nation;
- report on progress on mainstreaming sustainable development thinking within specific parts of the public sector;
- report on mainstreaming sustainable development thinking on certain issues; or
- advising Welsh Ministers.

3.29 For this information to be used in an effective manner, the sustainable development body should have the ability to collaborate with the AGW on matters relating to the mainstreaming of Sustainable Development with public service organisations.

#### **Relationships to other Commissioners**

3.30 The overarching nature of sustainable development provides an opportunity for key cross cutting themes such as equalities, the Welsh language and tackling

poverty to be fully integrated. The body should have a key role in supporting the joining-up of these themes in embedding sustainable development. Securing the involvement of relevant Commissioners and advisers from these sectors in its work will be important and can also help to provide greater clarity to the wider public sector of their responsibilities. For example, the body might benefit from the experiences of the Older Persons Commissioner in its development of measures of wellbeing and the Older Persons Commissioner may also benefit from the body's input in relation to key long term trends.

### **Ex officio members**

3.31 A mechanism to enable other Welsh Commissioners such as the Welsh Language, Older Persons and Children's Commissioner, to support the work of the body could be by making them ex officio members. In this way, they can become a member of the body by virtue of holding another office. Such members could be given the same rights as other members including making recommendations or voting. Taking on additional members on this basis would align more effectively with the broad scope of the duty and would also reflect the body's role in relation to the integration principle encompassed by sustainable development. Participation would not however be limited to ex officio members. Other representatives could be invited to provide alternative points of view where needed. These individuals should then be excused from the final decision making process, but they will be given an opportunity to participate in discussions.



## 4. Implementation

4.1 This chapter sets out the proposed approach to the implementation of the legislation, in particular the recommended phasing of the application of the duty to identified organisations and proposed approach to the establishment of the body.

### (i) Phasing of the duty

4.2 It is proposed that the duty will be brought forward in a phased approach to ensure that sufficient guidance and advice is available from the independent sustainable development body and the Welsh Government to support organisations subject to the duty. To provide consistency in application, it is proposed that the duty would apply at the beginning of the financial year. This would also align it with existing corporate planning processes and reporting arrangements and further minimise the burden on organisations. A phased timetable is proposed as set out in Table 1 below. The detailed arrangements for the phasing of the duty will be brought into force by commencement order.

### (ii) Establishing the new body

4.3 The body's role in advising, guiding and supporting public organisations to fulfill their obligations under the Sustainable Development Bill require that the body must be functioning as soon as the Bill comes into force. The proposed date for this will be 2015 which will coincide with the duty coming into force for those organisations for which the duty will apply from April 2015 (see Table 1). It is proposed to establish the body as soon as possible to enable it to develop the capacity to support these organisations and other public service organisations that will be subject to the duty.

<b>Table 2 – Implementation Plan</b>	
From 2015	
<ul style="list-style-type: none"><li>- Welsh Government</li><li>- Natural Resources Wales</li><li>- National Library of Wales</li><li>- National Museum Wales</li><li>- Sport Wales</li><li>- Arts Council of Wales</li></ul>	Establish the new independent sustainable development body

<b>Table 2 – Implementation Plan</b>
From 2016
<ul style="list-style-type: none"> <li>- Local Authorities</li> <li>- Fire and rescue authorities</li> <li>- National Park Authorities</li> <li>- NHS Trusts</li> <li>- Local Health Boards</li> <li>- Higher Education Funding Council for Wales</li> <li>- Higher Education Institutions</li> <li>- Further education corporations</li> </ul>
From 2017
<ul style="list-style-type: none"> <li>- Registered Social Landlords</li> <li>- Town and Community Councils</li> </ul>

### **(iii) Supporting the change**

4.4 Much progress has been made in Wales on sustainable development and some organisations have started to embed sustainable development. This provides a good foundation for implementing the duty and it will be important to draw on the existing good practice across Wales and outside of Wales in supporting organisations to fulfill the requirements of the duty.

4.5 The Welsh Government recognises that a Sustainable Development Bill alone will not drive the change needed. It will also require improvement in the capabilities and integration of organisations as highlighted by the consultation which drew out a number of the barriers to the delivery of sustainable development in Wales. In developing the statutory guidance linked to this proposed legislation the Welsh Government will work with organisations and stakeholders.

4.6 There are a number of policies, programmes and legislation which the Welsh Government already has under way which help to support this change. This approach also employs the principles of sustainable development - engaging and enabling people, communities and organisations to find the solutions that best meet their circumstances within the framework of sustainable development.

### **(iv) Measuring progress**

4.7 In line with the overall approach, measuring progress with respect to the legislation needs to be embedded within the frameworks that currently exist for the relevant organisations. However, as set out in the 'Delivering Outcomes' section, the legislation will set out the need for clearly defined outcomes and corresponding

indicators that measure progress against them. This will be supported by the proposals for reporting and the sustainable development body, which will have a key role in both supporting organisations and monitoring progress. In addition, the proposals to strengthen accountability for sustainable development will also enhance the monitoring framework.

4.8 Progress towards sustainability at the national level is currently measured through the Sustainable Development Indicators. The latest sustainable development figures were published in August 2012 which show that in the last year Wales has increased its economic output, driven up its renewable energy production, recycled and composted more of its waste and improved the way in which it manages water.

4.9 For the Welsh Government, progress is measured with respect to the delivery of the Programme for Government commitments. The Programme for Government sets the context for the Welsh Government's decision making and provides transparency as to whether actions are being implemented and are having the intended effects. Reports on progress with the Programme are published annually; the first report being published in May 2012.

4.10 Part of the ongoing process of reviewing the Programme for Government is to look at appropriate sets of indicators. This will be reflected in the next annual report on the Programme for Government when it is published in 2013. In addition, the Welsh Government shortly plans to consult on the current Sustainable Development Indicators.



## 5. Accountability

5.1 This chapter sets out the proposals to ensure that the public service organisations covered by the duty are fully accountable within the wider governance framework.

### Background

5.2 To provide an effective governance framework for sustainable development in Wales it is essential that organisations are accountable for progress in embedding sustainable development. Accountability is a central part of the Government's approach to improving public services and plays an important role in ensuring that organisations are accountable to the people and communities they serve.

5.3 In developing the proposals, the Welsh Government considered whether the new independent sustainable development body should carry out scrutiny of individual organisations subject to the duty. However, given the aim to truly embed sustainable development at the heart of the public service and the breadth of the task, the Welsh Government has concluded that the most effective way to deliver clear accountability and robust scrutiny is to embed it within the frameworks already in place for public service organisations. These arrangements already examine the quality of the systems and processes that underpin the corporate governance arrangements of public service organisations.

5.4 This will complement the requirements in the Local Government Measure 2011 which places a duty on local authorities to scrutinise the contribution of all public service providers in an area to achieving improved outcomes.

### (i) The Role of the Auditor General for Wales

5.5 For the majority of the identified organisations the responsibility for scrutiny falls on the Auditor General Wales (AGW). The Auditor General is the external auditor of the Welsh Government and its sponsored and related public bodies and National Health Service (NHS) bodies in Wales. The Auditor General also appoints the external auditors of Welsh local government organisations, including unitary authorities, fire and rescue authorities, national parks and community councils.

5.6 In addition, the Government recognises that the AGW already has experience of carrying out examinations on sustainable development within Local Government and the Welsh Government. In keeping with the central aim of the legislation, the Government therefore proposes to place a duty on the AGW, to include an examination of how organisations have embedded sustainable development as their central organising principle in relation to the duty.

5.7 Any examination should be based in terms of compliance, by the audited public body, on how sustainable development has been embedded within the systems and processes that govern how strategic decisions are made, including joint strategic planning with other organisations, such as in the preparation of a strategic needs assessment, single integrated plan or spatial plan.

5.8 Such arrangements should restrict the scrutiny to the systems and processes that govern how strategic decisions are made and how consideration has been given to sustainable development, and not to question the policy objectives of an organisation, or the outcomes of a particular decision.

5.9 At present the AGW sets out his approach to audit through a Code of Audit Practice. It is within this document that an additional clause could be added setting out how the AGW proposes to carry out the audit and the principles to be applied. The intention here would be to complement the current powers and duties of the AGW, such as those for local government under the Annual Improvement Reporting process. The costs of such examinations, for both the audit organisations and the organisations being scrutinised should not be excessive, and to be proportionate to the benefits. The AGW will be expected to scrutinise the extent to which organisations have complied with any statutory guidance published by the Welsh Government.

**(ii) Other accountability arrangements**

5.10 There are different accountability arrangements for Higher Education Institutions and Further Education Corporations, Registered Social Landlords and Local Government Bodies. There should be consideration of arrangements for these bodies to ensure there is a consistent approach to scrutiny across the organisations subject to the duty. The implementation of the scrutiny arrangements should reflect the implementation of the duty on selected organisations as set out in Chapter 4.

5.11 It is not of course a matter for the Welsh Government, but the National Assembly for Wales may also wish to consider its role in the future scrutiny of the sustainable development duty given its key role and ability to drive integration.

## **6. Conclusion**

6.1 This White Paper sets out the Government's proposals for legislation to strengthen the governance framework for sustainable development in Wales.

6.2 Should you wish to comment on the proposals set out in the White Paper a number of consultation questions are set out below. A consultation response form has been provided alongside this White Paper for you to comment. Full details of the consultation can be found on the inside cover of this document. The Welsh Government will run a series of consultation events across Wales on the White Paper during the consultation period.

### **(i) Next steps**

6.3 Over the coming months the Welsh Government will be working on the development of the Sustainable Development Bill ready for introduction to the National Assembly for Wales in autumn 2013. This will include continued engagement with organisations subject to the duty, stakeholders, and the Auditor General Wales.

### **(ii) Impact**

6.4 The approach taken to embedding sustainable development as the central organising principle has ensured that existing decision making processes and accountability frameworks are used. This will therefore act to minimise the additional burden associated with this proposed legislation. However this approach also means that it is difficult to quantify the detailed impacts of the new duty on organisations and the Welsh Government therefore intends to work with organisations in developing the Regulatory Impact Assessment for the Bill.

6.5 An Equalities Impact Assessment has been published separately. This will be reviewed at regular stages in the development of the Sustainable Development Bill.





## Consultation Questions

<b>Question 1</b>	<b>(Chapter 2)</b>
What are your views on the proposals for a new duty to embed sustainable development as the central organising principle of selected organisations in Wales?	
<b>Question 2</b>	<b>(Chapter 3)</b>
What are your views on the proposals for an independent sustainable development body?	
<b>Question 3</b>	<b>(Chapter 4)</b>
What are your views on the proposed phasing and implementation of the duty, including the timing of the establishment of the independent sustainable development body?	
<b>Question 4</b>	<b>(Chapter 5)</b>
What are your views on the proposals to improve the accountability framework for sustainable development in Wales?	
<b>Question 5</b>	
We have asked four specific questions. Do you have any related issues which we have not specifically addressed, for example with regards the implementation of the proposals? Please use the consultation response form to express your views.	