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# One Wales: One Planet

A Welsh Government Discussion Paper -  
Sustainable Development Bill

November 2011





# A Welsh Government Discussion Paper

## Sustainable Development Bill

We believe that the time is now right to strengthen our approach to delivering a better future for Wales.

The challenges of government include stimulating a sustainable economy, regeneration and tackling deprivation, delivering quality public services, promoting social justice and equality for all, and making sure we live within our planet's ability to support us, whilst we manage financial constraints. We need to see a change in the scale and pace of how we tackle these challenges coherently, so that we see the change start to happen.

We won't do that through the thinking which has created these problems. When we talk about sustainable development, we mean an approach to decision making that:

- Embraces the long-term.
- Demands integration.
- Reduces complexity.
- Encourages joined-up thinking.
- Encourages active participation.

We intend to develop legislation that achieves this, and so this document can help guide initial discussions about the proposed legislation, which will help to shape the ideas.

## Background

The First Minister's statement on the Welsh Government's legislative programme, on 12 July, included the following commitment:

*We will legislate to embed sustainable development as the central organising principle in all of our actions across Government and all public bodies, bringing forward a Sustainable Development Bill. The approach will set Wales apart as a sustainable nation, leading from the front.....the Bill will provide for the establishment of an independent body to continue the legacy of the Sustainable Development Commission in a way that best reflects Welsh interests and needs.*

This is reflected in the Programme for Government which commits us to:

- Legislate to make sustainable development the central organising principle of the Welsh Government and public bodies in Wales.
- Create an independent sustainable development body for Wales.

We plan to formally consult on the purpose and intent of the SD Bill during 2012, and to be in a position where we can introduce the Bill into the National Assembly in the latter half 2013.

## **What do we mean by sustainable development?**

Our approach to sustainable development is set out in our Sustainable Development Scheme. It's aimed at improving the economic, social and environmental wellbeing of people and communities in Wales over the long term. This is done in ways that promote social justice and equality for all, and which reduce our use of the earth's resources and move us to living within them. It is an approach firmly focused on improving and sustaining people's quality of life, now and in the future. It is about the wellbeing of people and communities, now and in the long term.

## **Sustainable development as the central organising principle**

Sustainable development is our central organising principle. This means that our approach to Government is about:

- Taking decisions that are effective in the long run, and not just over the short term.
- Taking a joined-up approach to Government, ensuring that the economic, social and the environmental issues that enhance people's quality of life are integrated into everything that we do.
- Working in partnership with others, so that participation and engagement with people, communities, businesses, the third sector, and the public sector in Wales is central to how we make decisions.

We have described how organisations can adopt sustainable development as their central organising principle in our guidance on our Sustainable Development Charter<sup>1</sup>. Information for local authorities (much of which is relevant to the wider public sector) is available through the Welsh Local Government Association's Sustainable Development Framework<sup>2</sup>.

An approach to SD as the central organising principle might therefore reflect the following:

- Having an agreed and clear understanding of sustainable development.
- Using this to identify and make hard decisions about how to make best use of resources to maximise people's wellbeing over the long term, prioritising prevention rather than tackling symptoms – focusing on the early identification of the causes of problems and tackling these, rather than tackling the symptoms at a later date.
- Embedding social justice and equality for all in all decisions.
- A continuous striving for resource efficiency.

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<sup>1</sup> <http://wales.gov.uk/topics/sustainabledevelopment/uksusdev/sdcharter/?lang=en>.

<sup>2</sup> <http://www.wlga.gov.uk/english/sustainable-development-framework/>.

- Engaging citizens, and enabling them to live more sustainable lives.
- Tackling single issues “in the whole” especially through integrating different issues between organisational and administrative silos at the same time.
- Reducing unnecessary bureaucracy and complexity so that maximum effort and resources can be directed to improving the day-to-day lives of our citizens.
- Promoting long-term cost savings between and within organisations through focusing on critical early interventions.
- Promoting decisions that do not impose unintended costs elsewhere, through integrating required economic, social and environmental outcomes into all decisions.
- Thinking long-term so that decisions today do not leave future generations picking up the cost.
- Delivering for the citizens of Wales.

In this way, sustainable development as the basis for all decision making can be seen as an approach to securing the best long-term value for the public pound and protecting our communities.

### **Sustainable Development Bill – things to consider**

The challenge is to develop legislation that is effective in promoting the change we need in the embedding, and delivery of, sustainable development within the public sector.

#### **Key issues**

- How should legislation bring about a step change in sustainable development?
- What does the public sector, with sustainable development as its central organising principle, look like and how does it operate?
- What new duties or powers might bring that about?
- What should be the role of the independent sustainable development body?

There are some key issues we are considering that will help shape the format and content of the draft Bill that we will consult on in Autumn 2012. We hope that by setting out these issues the early discussions that others have on the Bill will have focus and will help contribute to the evidence that will help us develop the most effective approach to the legislation.

#### **1. The degree to which the Bill should be prescriptive in its approach**

Some existing legislation to promote sustainability is prescriptive in its approach. For example, Schedule 1 of the Sustainable Communities Act 2007 lists 13 detailed

“matters” to which local authorities in England must have regard when they make proposals which they consider would contribute to promoting the sustainability of local communities<sup>3</sup>.

Other legislation is more general. Section 79 of the Government of Wales Act 2006, which applies to the Welsh Government, contains a duty to make a scheme setting out how Welsh Ministers propose to promote sustainable development “in the exercise of their functions”. Sustainable development is not defined within the Government of Wales Act 2006. The current definition<sup>4</sup> (included within One Wales: One Planet) was agreed by Cabinet.

- Would it be helpful to define what we mean by Sustainable Development in the Bill? What are the disadvantages of doing this?
- Would it be helpful to define what we mean by sustainable development as the central organising principle in the Bill?
- Or should the Bill be more widely framed to include specific proposals that would support sustainable development as the central organising principle, without the need to define it as such?

## **2. The nature of the duty to be imposed**

Embedding sustainable development as the central organising principle in the Welsh public sector is the result we want to achieve. How we get there is a question that we will need to consider carefully. We will invite the National Assembly to pass legislation that will impose duties on the Welsh public sector and we want to ensure that the duties we propose will actually lead to the step change we want to see.

We want effort to be devoted to delivering sustainable development on the ground, not diverted by tick-box exercises or unnecessary administration. We would welcome stakeholder input on issues such as the type of duties that are most likely to lead to tangible change on the ground, the type of decisions to which the duty should apply and the appropriate level at which these duties should engage. Things to think about include:

- How can we do more to achieve sustainable development without legislation but which can support the legislation?
- In terms of the legislation, the nature of the duty, for example:
  - A general duty to promote or have regard to sustainable development.

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<sup>3</sup> All Acts of Parliament apply to England and Wales, but not all provisions apply to Welsh local authorities, as is the case with the Sustainable Communities Act 2007.

<sup>4</sup> 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.

- A duty to produce a sustainable development strategy or scheme, similar in nature to the Welsh Government's sustainable development duty.
- A duty to comply with a system of standards and targets to promote or achieve sustainable development, similar in nature to the system for Welsh improvement authorities under the Local Government (Wales) Measure 2009.
- A duty to have regard to sustainable development indicators when making decisions.
- A duty to assess the compatibility of decisions against sustainable development principles; that is, a sustainable development impact assessment, similar in nature to environmental impact assessments.
- A duty to weigh the short term benefits of options against the long term social, economic and environmental costs, coupled with a duty to avoid or justify any long term costs.
- A duty to demonstrate how internal systems of decision making ensure that SD as the central organising principle fully determines decisions (for example, decision making through internal cross-cutting boards).
- A duty to form cross-border, cross-disciplinary panels to identify long term sustainable development outcomes, together with a duty to make decisions consistently with achieving the long term outcomes; that is, a broader version of the community planning envisaged by the Local Government (Wales) Measure 2009.

The nature of the decisions that should be caught by the duty; for example:

- Should the duty apply to budgetary proposals and financial planning?
- Should the duty apply only to the exercise of public functions, such as front line service delivery to citizens; or should it also apply to how public bodies manage their resources, such as their property and staff?

The most effective level at which to impose the duty; for example:

- At the strategic level, so that all decisions of a public body are presumed to meet the duty if the body's overall strategic direction complies with the duty.
- At policy or programme level, so that all decisions taken in accordance with a compliant policy or programme are automatically presumed to meet the duty.
- At individual project level, so that all decisions made in connection with a project are automatically assumed to meet the duty if the project itself is consistent with the duty.
- at individual decision level, so that each and every decision made by the public sector must be consistent with the duty or can justifiably depart from it.

### **3. The balance between what is included in the body of the Bill and what might be included in any statutory or non-statutory guidance that might accompany the Bill, once passed.**

Consideration also needs to be given to the role, if any, of guidance from the Welsh Government. We have already published non-statutory guidance to accompany our Sustainable Development Charter (reference above), and well as a non-statutory advice note on embedding sustainable development in Community Strategies<sup>5</sup>.

- How important will advice and guidance be to help promote the purpose and intent of the Sustainable Development Bill?
- Should the Welsh Government have power to give guidance to the public sector or should this role be reserved to the new Sustainable Development body established by the Bill?
- If the Welsh Ministers are to have power to give guidance will it be more helpful for the guidance to be statutory or non-statutory? Useful to note here that statutory guidance can bring with it a statutory duty to consult before issuing guidance and duties to take guidance into account to a greater or lesser degree.
- How prescriptive should any guidance be?
- To what extent should the public sector be required to adhere to any guidance? For example, should the public sector be required only to have regard to guidance, or to actually comply with it?
- Is there a case for a stronger type of guidance, more akin to a code of practice that must be complied with?

### **4. How best to consider how to ensure compliance with the Bill**

The Government of Wales Act 2009 requires Welsh Ministers to publish an annual report of how the proposals set out in the Sustainable Development Scheme have been implemented within a financial year; and (following an election of the National Assembly of Wales) to publish a report containing an assessment of how effective the proposals (as set out in the Scheme and implemented) have been in promoting sustainable development.

- Would a similar reporting framework to this for the devolved public sector be effective in delivering sustainable development?
- How do we avoid a compliance or a reporting process that is a costly, bureaucratic tick-box exercise?
- How might the effectiveness of the Bill in delivering sustainable development on the ground best be monitored?

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<http://wales.gov.uk/topics/localgovernment/partnership/commstrategies/advicenotes/sustainable/?lang=en>.

## 5. What is the role and model for the new sustainable development body?

The proposed Bill will legislate to set up an independent body on sustainable development, to meet Welsh needs. There are various model and roles that such a body, headed by a Commissioner, could play. For example:

- An Ombudsman serving citizens, enforcing rights and dealing with specific case work – following the model of the Hungarian Commissioner for Future Generations.
- A Welsh Government funded body, with a Commissioner appointed by but independent from, Welsh Ministers, and reporting to Welsh Ministers – set up to advise, guide and challenge the Welsh Government and the devolved public sector on sustainable development.
- A Commission appointed by the National Assembly for Wales, independent of Welsh Government, focusing on scrutiny and holding the Welsh Government and the devolved public sector to account on sustainable development.
- Is there a need for a new body?
- What should the role of the new body be?
- Should the body have specific duty or powers?
- Which model is most effective in allowing the new body to discharge its duties most effectively?
- Are there other roles that the new body should undertake?

### Conclusion

We are conscious that many of our stakeholders are discussing the proposed Sustainable Development Bill. This discussion paper is intended to help shape those discussions and focus them on some of the issues that will need to be considered in detail as the Bill is developed, in time for a full consultation in Autumn 2012.

We would be happy to receive any initial thoughts you have in response to this discussion document. We would be pleased to meet stakeholders collectively or individually to discuss their views,

Please get in touch with us at: [SDBill@wales.gsi.gov.uk](mailto:SDBill@wales.gsi.gov.uk).

## **ANNEX 1: What a sustainable Wales would look like**

Across society there is recognition of the need to live sustainably and reduce our carbon footprint. People understand how they can contribute to a low carbon, low waste society, and what other sectors are doing to help. These issues are firmly embedded in the curriculum and workplace training. People are taking action to reduce resource use, energy use and waste. They are more strongly focused on environmental, social and economic responsibility, and on local quality of life issues, and there is less emphasis on consumerism. Participation and transparency are key principles of Government at every level, and individuals have become stewards of natural resources.

We have strong, active, resilient and supportive communities where people take responsibility for their own actions and how they affect others. Wales is a bi-lingual society, is fairer and more equal, and there is a reduction in the gap between rich and poor. Employment levels are high, and people enjoy a greater work-life balance, with more opportunities for volunteering. People work closer to home.

Many communities are taking action locally to reduce emissions and have developed local carbon budget programmes. Action has been taken to ensure that reducing greenhouse gas emission and the impacts of climate change do not increase social exclusion in Wales. People are active in maintaining the quality of the local environment where they live.

Economic regeneration is undertaken with sustainable development at its core, and promotes low carbon, low waste ways of working. There has been a huge growth in businesses that supply the goods and services needed to support a sustainable economy, including within the third sector. This growth has been underpinned by the development of training and qualifications in key sectors and in key skills needed for the production of low carbon, low waste goods and services. Wales is home to a number of world-leading technology development companies and manufacturing plants. The emphasis is on durable, recycled, recyclable and re-usable goods, and goods which are low carbon. These products are used locally and exported. Much more freight is moved by rail.

The energy intensity of society has decreased significantly. There has been a consistent drop in energy and water demand. There has been a major increase in renewable energy generation, offshore and onshore. All remaining fossil fuel plants have much improved energy efficiency, use their waste heat productively, and have carbon capture and storage fitted. Heavy industry and the power generation sector have greatly improved the energy efficiency of their processes and reducing the embedded carbon in their products. Large, energy intensive sites are maximising the productive use of waste heat and supplying other businesses and homes.

Waste – whether of energy or other resources is taboo – both from a cost and societal impact. There is less light pollution. Resources are valued and as a result there has been a huge reduction in waste production and a much greater emphasis on reuse. Composting and recycling are at very high levels, and the third sector is active in providing services to enable reuse and recycling.

Walking and cycling are much more commonplace. There is greatly enhanced provision for cyclists and pedestrians within towns and cities, with improved walking and cycling networks as well as better street design and traffic management measures. There are fast, reliable, affordable public transport services connecting major settlements. There are frequent, reliable mass transit services within cities and more heavily urbanised regions. There is a coherent network of sustainable transport options within rural Wales. Travel Plans are part of all new developments. All employers develop and implement Travel Plans.

The 'school run' has been replaced by organised school transport or group walking / cycling. Petrol and diesel prices remain high, engine efficiency has increased with the widespread take-up of hybrid vehicles. People buy smaller, more efficient cars, and lift-sharing is a common way of travelling. The carbon content of transport fuels has reduced. The rate of growth in air travel has slowed down and it is no longer regarded as a necessity.

Good quality housing for all is the norm. Homes and businesses are far more energy efficient and sustainable – all existing buildings at least meet Energy Performance Certificate standard C and many are on the way to becoming carbon neutral. All new buildings are constructed to the highest standards of energy and water efficiency, and are zero carbon. New development and infrastructure is located, designed and constructed for the climate it will experience over its design life, and to minimise travel needs.

The public sector has led the way in this area, and sustainable development is the central organising principle of public service. Public buildings, schools, further and higher education institutions, hospitals and community buildings have been early, visible demonstrators of greater energy efficiency and renewable technology. They have also pioneered staff and service delivery approaches that minimise the need to travel. Many services are available locally and IT is used extensively to connect to specialist services.

Sustainable development and global citizenship is firmly embedded into all levels of educational provision and lifelong learning in Wales, and all schools are Eco and Fair Trade schools. Levels of educational attainment are high.

There is a much greater emphasis on preventative health care throughout society, and many more people are living healthy lives through eating better and getting exercise more regularly as part of their everyday lives. Increased localisation means that people are eating more seasonal, fresh local produce and this has stimulated agriculture and horticulture in Wales and there is much greater consideration given to the provenance of food. Much more food is traded locally where possible and fairly with the developing world when not. There is a huge expansion in allotments and community gardening. The agricultural industry has adapted to a changing climate, including making provision for the impacts of warmer summers, and changes in land use and management.

Wales' historic landscapes have been preserved and we have learnt lessons from our past which inform our future management. We are now also managing land for the wider ecosystem services it can deliver, including carbon storage, water quality,

flood management, and landscape quality and connectivity for wildlife to adapt to climate change. As a result the loss of biodiversity has been halted and there is a greater number, range and genetic diversity of wildlife. There is a greater understanding and appreciation of our inter-dependence with the other species we share the planet with.

The marine environment is managed sustainably on an ecosystem approach, and there is an ecologically coherent, representative and well managed network of marine protected areas. Many more people enjoy sustainable access to enjoy the countryside and coast. Wales' historic environment and heritage is sustainably managed and is accessible to all, sustainable transport options for visitors are more commonplace, and this underpins Wales' brand as a sustainable tourism destination.

Wales is recognised internationally as a leader in sustainable development, and learns from, and exports its learning to, other small nations and regions in Europe and wider afield.

## **ANNEX 2: Wales for Africa – our international commitment to sustainable development**

The Wales for Africa programme seeks to support Welsh efforts to help deliver the UN Millennium Development Goals to halve global poverty by 2015. It reflects the continued desire for Wales to be an outward-facing nation that confidently recognises the contribution we can make to the world as active and responsible global citizens.

By the end of 2010-11 the Wales Africa Community Links project had supported 166 community-based projects, tackling poverty in Africa and providing benefits to those involved in Wales. The UN Development Programme endorsed the initiative as leading the world by example.

The 23+ Wales for Africa Health Links continued to improve their impact, providing essential and life-saving training to healthcare workers in Africa, supporting women in childbirth and providing bicycles and motorbike ambulances to transport people in the remotest rural areas to their clinics and hospitals.

We also continued to work with the Somali community in South Wales to develop development focussed Wales-Somaliland community initiatives, and supported other African Diaspora groups in Wales – from Zimbabwe, the Democratic Republic of Congo and elsewhere – to develop their activities in support of their homeland.

In October 2010 the Counsel General officially launched an innovative new regional partnership project hosted by the UN Development Programme (funded by the UK and Danish Governments), for Wales to assist the region of Mbale in Uganda to tackle climate change. The devastating effects of climate change are already being felt in Mbale and impacting on the poorest people. Earlier in 2010 a mudslide on mountain slopes in Mbale, caused by heavy rain and exacerbated by deforestation, killed around 300 people from poor farming communities. Work has now begun with a project to plant up to 1 million trees in the Mbale region in conjunction with the Size of Wales project.