



Dr Nicholas Islwyn D. Fenwick, Head of Policy, Farmers' Union of Wales, Llys Amaeth, Plas Gogerddan,
Aberystwyth, Ceredigion, SY23 3BT

Tel: 01970 820820
Fax: 01970 820821
E-mail: nick.fenwick@fuw.org.uk

Alun Ffred Jones AM
Cadeirydd
Pwyllgor Amgylchedd a Chynaliadwyedd
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
Caerdydd
CF99 1NA
SeneddEnv@Assembly.Wales

3^{ydd} Gorffennaf 2015

Annwyl Mr Jones

Further to yesterday's National Assembly Environment and Sustainability Committee evidence session, please find below examples of potential conflicts and overlaps between the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Bill which could cause problems, as requested by the Committee.

I trust Committee members appreciate why the complexity of the Act coupled with the limited staff resources the FUW has to cover a plethora of policy areas makes citing such specific examples at short notice impossible.

Yn gywir

Nicholas Fenwick

Head of Policy

Sections of the Well-being of Future Generations (Wales) Act 2015	Sections of the Environment (Wales) Bill	Comments
<p><u>3 Well-being duty on public bodies</u></p> <p>(1) Each public body must carry out sustainable development.</p> <p>(2) The action a public body takes in carrying out sustainable development must include—</p> <p>(a) setting and publishing objectives (“well-being objectives”) that are designed to maximise its contribution to achieving each of the well-being goals, and</p> <p>(b) taking all reasonable steps (in exercising its functions) to meet those objectives.</p> <p>(3) A public body that exercises functions in relation to the whole of Wales may set objectives relating to Wales or any part of Wales.</p> <p>(4) A public body that exercises functions in relation only to a part of Wales may set objectives relating to that part or any part of it.</p> <p><u>4 The well-being goals</u></p> <p>A prosperous Wales</p> <p>An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.</p> <p>A resilient Wales</p> <p>A nation which maintains and enhances a biodiverse natural</p>	<p><u>6 Biodiversity and resilience of ecosystems duty</u></p> <p>(1) A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.</p> <p>(2) In complying with subsection (1), a public authority must take account of the resilience of ecosystems, in particular the following aspects—</p> <p>(a) diversity between and within ecosystems;</p> <p>(b) the connections between and within ecosystems;</p> <p>(c) the scale of ecosystems;</p> <p>(d) the condition of ecosystems;</p> <p>(e) the adaptability of ecosystems.</p> <p>...</p> <p><u>10 Area statements</u></p> <p>(1) NRW must prepare and publish statements (“area statements”) for the areas of Wales that it considers appropriate for the purpose of facilitating the implementation of the national natural resources policy.</p> <p>...</p> <p><u>12 Welsh Ministers’ directions to implement area statements</u></p> <p>(1) The Welsh Ministers may direct a public body to take such steps as appear to them to be reasonably practicable to address the matters specified in an area statement under section 10(3).</p> <p>...</p> <p><u>13 Guidance about implementing area statements</u></p> <p>(1) In exercising its functions, a</p>	<p>The <i>well-being goals</i> identified in the Well-being of Future Generations (Wales) Act cover a diverse range of areas including prosperity and language.</p> <p>The <i>well-being objectives “designed to maximise its contribution to achieving each of the well-being goals”</i> will be similarly diverse but presumably more detailed.</p> <p>Section 6 of the Environment Bill places a duty on public bodies to maintain and enhance biodiversity and promote the resilience of ecosystems by taking account of the diversity between and within ecosystems; the connections between and within ecosystems; the scale of ecosystems; the condition of ecosystems; and the adaptability of ecosystems.</p> <p>In terms of a number of the well-being goals and likely well-being objectives, there is a clear overlap with those duties identified in Section 6 of the Environment Bill, while in relation to some of those goals and objectives there may be a direct conflict – for example where prosperity and the Welsh language may be compromised by actions aimed at complying with Section 6.</p> <p>As such, there is a lack of clarity regarding where the balance between Sections 3 and 4 of the Well-being of Future Generations Act and Section 6 of the Environment Bill should lie, what should take precedent, and how the two pieces of legislation should interact given potential conflicts and overlaps.</p> <p>Within areas established under Section 10 of the Environment Bill (Area Statements) such overlaps and in particular conflicts (with well-being goals and objectives established under the Well-being of Future Generations Act) are</p>

<p>environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).</p> <p>A healthier Wales</p> <p>A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.</p> <p>A more equal Wales</p> <p>A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio economic background and circumstances).</p> <p>A Wales of cohesive communities</p> <p>Attractive, viable, safe and well-connected communities.</p> <p>A Wales of vibrant culture and thriving Welsh language</p> <p>A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.</p> <p>A globally responsible Wales</p> <p>A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.</p> <p>...</p> <p><u>18 Commissioner's general duty</u></p>	<p>public body must have regard to any guidance given to it by the Welsh Ministers about steps that should be taken to address the matters specified in an area statement under section 10(3).</p>	<p>likely to be exacerbated.</p> <p>The Future Generations Commissioner, Advisory Panel and Public Service Boards have various duties in terms of the well-being goals and objectives, yet there is no clarity as to how these would deal with possible the possible or likely conflicts referred to above.</p> <p>As already stated, the above are just some examples of concerns regarding conflicts and overlaps between the Well-being of Future Generations Act and the Environment Bill, a lack of clarity regarding which is likely to add to the already formidable costs of implementation.</p>
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The general duty of the Commissioner is—

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

(i) act as a guardian of the ability of future generations to meet their needs, and

(ii) encourage public bodies to take greater account of the long-term impact of the things that they do...

36 Well-being duty on public services boards

(1) Each public services board must improve the economic, social, environmental and cultural well-being of its area by contributing to the achievement of the well-being goals.