

# **WELL-BEING OF FUTURE GENERATIONS (WALES) ACT 2015**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes are for the Well-being of Future Generations (Wales) Act 2015 which was passed by the National Assembly for Wales on 17 March 2015 and received Royal Assent on 29 April 2015. They have been prepared by the Department for Natural Resources of the Welsh Government to assist the reader of the Act. The Explanatory Notes should be read in conjunction with the Act but are not part of it.

### **GENERAL OVERVIEW OF THE ACT**

#### **Part 1 – Introduction**

2. Part 1 provides an overview of the main provisions of this Act.

#### **Part 2 – Improving well-being**

3. Part 2 sets out the well-being goals which public bodies must seek to achieve.
4. This Part specifies which bodies are ‘public bodies’ for the purposes of Parts 2 and 3 of the Act and requires those public bodies to set and publish well-being objectives designed to maximise their contribution to the achievement of the well-being goals. Public bodies must set and take all reasonable steps to meet their well-being objectives in accordance with the sustainable development principle. The matters to which public bodies must take account of when acting in accordance with the principle are set out in this Part of the Act.
5. Under Part 2, the Welsh Ministers are required to set national indicators that must be used to measure progress towards achieving the well-being goals and must also set milestones in relation to the national indicators. The Welsh Ministers must publish annually, a report (the ‘annual well-being report’) on progress made towards achieving the well-being goals with reference to those indicators and milestones. Following each National Assembly election the Welsh Ministers must publish a ‘future trends report’ which includes an assessment of likely future trends in relation to the economic, social, environmental and cultural well-being of Wales.
6. Part 2 also requires the Auditor General for Wales to carry out examinations into the extent to which public bodies set well-being objectives and take steps to meet them in accordance with the sustainable development principle. Finally, this Part requires public bodies, including the Welsh Ministers, to report annually on their progress towards achieving their well-being objectives. Schedule 1, which is introduced in this Part, sets out additional requirements in relation to annual reporting by public bodies (excluding the Welsh Ministers).

### **Part 3 – The Future Generations Commissioner for Wales**

7. Part 3 and Schedule 2 establishes the office of Future Generations Commissioner for Wales (the ‘Commissioner’).
8. Under the provisions of this Part, the Commissioner is required to promote the sustainable development principle and monitor and assess the extent to which the well-being objectives set by public bodies under Part 2 of the Act are being met. Part 3 also establishes a panel of advisers to the Commissioner (the ‘advisory panel’) who provide advice to the Commissioner on the exercise of her or his functions.

### **Part 4 – Public Services Boards**

9. Part 4 and Schedule 3 establishes statutory public services boards consisting of the main public services working in a local authority area. Part 4 establishes their aim in relation to improving well-being by contributing to the achievement of the well-being goals.
10. This Part requires public services boards to prepare and publish local well-being plans setting out their local objectives and the steps they propose to take to meet them. Public services boards are also required to undertake an assessment of the state of economic, social, environmental and cultural well-being in their local areas in order to inform the objectives within their local well-being plans.
11. Part 4 sets out who else a public services board may work with and provides for public services boards to merge or otherwise collaborate.
12. Schedule 4, also introduced by this Part, provides for consequential amendments and repeals to support the implementation of the provisions in Part 4 of the Act.

### **Part 5 – Final provisions**

13. Part 5 contains general provisions regarding subordinate legislation, interpretation, commencement and provides for the short title of the Act.

## **COMMENTARY ON SECTIONS**

### **Section 2 – Sustainable development.**

14. Section 2 defines sustainable development in this Act as the process of improving the economic, social and environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals.
15. Section 5 of the Act provides further details as regards the application of the sustainable development principle.

### **Section 3 – Well-being duty on public bodies**

16. Section 3 requires public bodies to carry out sustainable development (as provided for in section 2). In fulfilling this duty, they must set and publish well-being objectives. These are objectives relating to how the public body intends to contribute to the achievement of the well-being goals (see section 4). Public bodies must set well-being objectives which seek to maximise their contribution to the well-being goals. In addition, they must take all reasonable steps, in exercising their functions, to meet their objectives.
17. Certain public bodies, such as the Natural Resources Body for Wales or the Welsh Ministers, exercise functions or deliver services in relation to the whole of Wales. Such public bodies may set well-being objectives that relate to the whole of Wales or any part of Wales as they consider appropriate.
18. Those public bodies who exercise functions or deliver services in relation to a specific part of Wales, such as Local Health Boards or local authorities, may only set well-being objectives that relate to that specific part of Wales.

### **Section 4 - Well-being goals**

19. Section 4 establishes a set of well-being goals which, collectively, express a vision for the long-term economic, environmental, social and cultural well-being of Wales and provide a coherent framework to guide the improvement of well-being in a sustainable manner.
20. The well-being goals are specified in Table 1 which details each goal together with a descriptor for the respective goal.
21. The well-being goals will enable public bodies to understand what they must seek to achieve in order to improve the economic, social environmental and cultural well-being of Wales, for both current and future generations.
22. The main purpose of the well-being goals is to set the context within which public bodies must set well-being objectives (see section 3). Public bodies will seek to achieve the well-being goals through meeting their well-being objectives.
23. Each of the well-being goals includes economic, social, environmental and cultural aspects of well-being.

### **Section 5 – The sustainable development principle**

24. Section 5 contains further provisions relating to the application of the sustainable development principle.
25. Public bodies must take all reasonable steps to meet their well-being objectives, as set under section 3(2) of the Act, in accordance with the sustainable development principle.

26. Subsection (2) details the matters that public bodies must take account of in order to discharge this requirement. Subsection (2)(a) relates to long-term thinking. When setting and meeting their well-being objectives, public bodies must balance their need to take action to address current issues (the short term) with the need to safeguard their ability to meet long-term needs. This is especially relevant where their short-term actions may have a detrimental effect in the future.
27. Subsection (2)(b)(i) and (ii) relate to public bodies taking an integrated approach. Within the context of the well-being objectives taking an integrated approach involves public bodies considering how their well-being objectives impact upon all the well-being goals.
28. In order to take an integrated approach a public body also needs to consider how their well-being objectives impact upon each other and in turn the well-being objectives of other public bodies. The public body should also consider how the actions they take to meet one well-being objective may be detrimental to another objective or other objectives being met, including those of any other public bodies subject to the provisions of the Act. This is particularly relevant where the activities of one public body could inhibit the ability of another public body in maximising its contribution to the achievement of the well-being goals.
29. Public bodies must have regard to the importance of engagement, as provided for by subsection (2)(c). This entails involving the people and communities whose well-being they are seeking to improve, as well as those with an interest in the economic, social, environmental and cultural well-being.
30. Subsection (2)(d) relates to public bodies taking a collaborative approach. This means public bodies working together, either with other bodies or other parts of their own body, in order to assist in meeting their well-being objectives or the well-being objectives of any other public body subject to the provisions of the Act.
31. Subsection (2)(e) provides for preventative action. In relation to the well-being objectives, this refers to public bodies considering actions which they could allocate resources now, in order to prevent problems from occurring or getting worse.
32. The statement, prepared under section 7(1) of the Act, must set out how the public body believes it has considered the matters provided for at section 5(2) in setting their well-being objectives and how it intends to consider these matters when meeting their well-being objectives.
33. This statement must also detail how the public body intends to take all reasonable steps to meet its well-being objectives, including how it will govern itself, and how its annual allocation of resources, for example its annual budget, will ensure it meets its well-being objectives.

### **Section 6 – Meaning of “public body”**

34. Section 6 lists certain persons as being a ‘public body’ for the purposes of Parts 2 and 3 of the Act. The Welsh Ministers may, by regulations, amend the meaning of public body by adding or removing a person from the list, or amending the description of such a person (as provided for in section 52 of the Act).

### **Section 7 – Statements about well-being objectives**

35. When publishing their well-being objectives, a public body must publish a statement regarding their well-being objectives the requirements of which are detailed at section 7 of the Act. This statement is also required should the Welsh Ministers revise their well-being objectives under section 8, or in the case of the other public bodies, section 9 of the Act.
36. In preparing the statement, the public body must explain why they consider that meeting their well-being objectives will contribute to the achievement of the well-being goals. The statement will explain why the public body considers that their well-being objectives have been set in accordance with the sustainable development principle and explain how the public body proposes to involve other persons in achieving the well-being goals, ensuring those persons reflect the diversity of the population. The statement must also detail what the public body intends to do (their steps) to meet their well-being objectives in accordance with the sustainable development principle. The public body must detail how it will govern itself, ensure the steps are kept under review and explain how resources are allocated annually for the purposes of taking their identified steps. In addition, the statement will detail the timeframe within which the public body expects to meet their well-being objectives.
37. Those public bodies that are members of a public services board (see section 29) may elect to discharge their sustainable development duty, namely the setting and publishing of well-being objectives, through the local well-being plan.

### **Sections 8 and 9 – The Welsh Ministers’ well-being objectives and other public bodies’ well-being objectives**

38. Section 8 requires the Welsh Ministers to publish well-being objectives, as required under sections 3 and 7 of the Act, no later than six months after the date of each general election of the Assembly. ‘General election’ refers to either an ordinary or extraordinary election of the Assembly as defined in sections 3 or 5 of the Government of Wales Act 2006.
39. The well-being objectives of the Welsh Ministers must be set for their term of government, which is until the scheduled date of the next ordinary Assembly election, as defined in section 3 of the Government of Wales Act 2006.

40. Section 9(2) provides that other public bodies, namely those listed in section 6 but excluding the Welsh Ministers, must initially set and publish their well-being objectives before the start of the financial year that follows the commencement of section 9 of the Act. Each public body must then set and publish subsequent well-being objectives at such time as they consider appropriate. Each public body must always have well-being objectives in place which contribute to the achievement of the well-being goals.
41. The Welsh Ministers and the other public bodies must, under sections 8(3) and 9(3) respectively, review their well-being objectives should the well-being goals be amended. This is intended to ensure the well-being objectives remain aligned with the current well-being goals.
42. If following a review, the Welsh Ministers and/or a public body determine that a well-being objective is no longer appropriate, they must revise the objective. For example, an objective could be considered no longer appropriate if the well-being goal(s) to which the objective contributes has been amended or the matter the well-being objective is addressing has changed (the objective is no longer relevant) or the well-being objective is not achieving the anticipated improvement in relation to the well-being goal(s) (the well-being objective is no longer effective).
43. The Welsh Ministers or the other public bodies may review and revise their well-being objectives at any time they consider appropriate under sections 8(5) and 9(5) respectively. Revised well-being objectives must be published as soon as is reasonably practicable.
44. Section 8(6) provides that any well-being objectives revised by the Welsh Ministers must be set for the remainder of their term of government.
45. Sections 8(8) and 9(7) respectively require the Welsh Ministers and the other public bodies to have regard to the latest Future Generations Report, as prepared by the Commissioner under the provisions of section 23 of the Act, when setting or revising their well-being objectives. The Future Generations Report may help public bodies in understanding what improvements they could make in order to set and achieve their well-being objectives in accordance with the sustainable development principle.

#### **Section 10 - National indicators and annual well-being report**

46. This section places a duty on the Welsh Ministers to publish, and lay before the Assembly, national indicators. These national indicators must be used to measure the progress being made across the public bodies towards the achievement of the well-being goals. Subsection (2) details criteria with which the national indicators must comply.

47. The Welsh Ministers are also under a duty to set milestones, in relation to the national indicators, which they consider, if achieved, would assist in indicating that progress is being made towards the achievement of the well-being goals. When setting each milestone, the Welsh Ministers must also set out the criteria for determining whether that milestone has been achieved and by when this should happen.
48. The Welsh Ministers may review and revise the national indicators and milestones at any time they consider appropriate. However they must, under subsection (5), review the national indicators and milestones should the well-being goals be amended. This is intended to ensure the national indicators and milestones remain aligned with the current well-being goals.
49. Should the Welsh Ministers, following a review, determine that any national indicator or milestone is no longer appropriate, they must revise the indicator(s) or milestone(s). The revised national indicators and milestones must be published and laid before the National Assembly as soon as reasonably practicable.
50. Prior to setting or revising the national indicators and milestones the Welsh Ministers must consult with the Commissioner, the other public bodies and any other person that they consider appropriate.
51. The Welsh Ministers are required to annually publish an update report (the annual well-being report) in respect of the national indicators detailing the progress being made towards the achievement of the well-being goals. This update must specify the period of time to which the measurement of each national indicator relates.

### **Section 11 - Future trends report**

52. The Welsh Ministers are required to publish a “future trends report” during the 12 months following an ordinary Assembly election, as defined in sections 3 of the Government of Wales Act 2006. This must include predictions of likely future trends in the economic, social, environmental and cultural well-being of Wales, including any related analytical data and information that the Welsh Ministers consider appropriate. In preparing the report, the Welsh Ministers must take account of any action taken by the United Nations in relation to the UN Sustainable Development Goals and the most recent Climate Change Risk Assessment produced under the Climate Change Act 2008. The publication of this report, within the 12 months following an election, triggers the provisions of section 23 relating to the requirement on the Commissioner to prepare the Future Generations Report.

### **Sections 12 and 13 - Annual reports by the Welsh Ministers and other public bodies**

53. The Welsh Ministers are required to prepare an annual report on the progress they have made towards meeting their well-being objectives. This annual report must be published and laid before the Assembly as soon as reasonably practicable following the end of the financial year to which the report relates.

54. Section 13 requires annual reports to be made by the other public bodies, and this section gives effect to Schedule 1 to the Act, which makes provisions for the preparation of annual reports by each public body. This Schedule does not apply to the Welsh Ministers.
55. When preparing their annual report, the Welsh Ministers and other public bodies must review their well-being objectives. Should a public body or the Welsh Ministers determine that any well-being objective is no longer appropriate, they must revise the well-being objective or objectives. Where this review results in the revision of one or more well-being objectives, a justification for, and explanation of, the revision must be included in the annual report.

### **Schedule 1 – Annual Reports by other public bodies**

56. This Schedule does not apply to the Welsh Ministers, by virtue of section 13(1) of the Act.
57. Schedule 1 requires public bodies to report annually on their progress towards meeting their well-being objectives.
58. Those public bodies that are subject to paragraph 1 of this Schedule must report in respect of each financial year. Section 55(1) of the Act defines financial year as ‘the period of 12 months ending with 31 March’.
59. Paragraph 2 requires Local Health Boards and NHS Trusts (at the time of commencement of the Act Public Health Wales NHS Trust and Velindre NHS Trust) to report in respect of each accounting year. The term accounting year is used in line with the National Health Service (Wales) Act 2006.
60. Paragraph 3 makes specific provisions in respect of the Natural Resources Body for Wales.
61. The Natural Resources Body for Wales (Establishment) Order 2012 requires the Natural Resources Body for Wales to prepare an ‘annual report’ detailing how it has discharged its functions during that financial year. Paragraph 3 amends this Order so that the annual report must also detail the progress made by the body in meeting its well-being objectives.
62. The annual reports required under paragraphs 1 and 2 of Schedule 1 must be published as soon as reasonably practicable following the end of the financial year to which the report relates.



#### **Section 14 – Guidance**

63. Section 14 places a duty on the Welsh Ministers to issue guidance to other public bodies in respect of Part 2 of the Act. A public body must take such guidance into account when exercising functions or discharging duties provided for under Part 2 of the Act.

#### **Section 15 – The sustainable development principle: Auditor General’s examination**

64. Section 15 confers a power on the Auditor General for Wales to carry out examinations in order to assess the extent to which public bodies have acted in accordance with the sustainable development principle in both the setting and taking of steps to meet those well-being objectives. The Auditor General must carry out at least one examination of each of the public bodies within each 5 year ‘reporting period’. Each reporting period starts a year before the planned date of the next ordinary general election of the Assembly and runs until a year and a day before the next such election.
65. By virtue of paragraph 32 of Schedule 4, the Auditor General for Wales has the power to charge fees for carrying out these examinations.

#### **Section 16 – Promotion of sustainable development**

66. Section 16 amends section 79 of the Government of Wales Act 2006, which contains a duty on the Welsh Ministers in respect of sustainable development.
67. The duty under section 79 of the Government of Wales Act 2006 before this section comes into force requires the Welsh Ministers to make a scheme to promote sustainable development.
68. The amendment to section 79 of the Government of Wales Act 2006 made by this Act retains a duty on the Welsh Ministers to make appropriate arrangements to promote sustainable development and to publish an annual report in respect of the arrangements made.
69. It removes the detailed requirements to produce a scheme and assessments of effectiveness of the scheme and replaces them by making it clear that the arrangements to promote sustainable development can be discharged by the Welsh Ministers exercising their functions under section 3(2) of the Well-being of Future Generations (Wales) Act 2015. Section 3(2) provides that the Welsh Ministers must set well-being objectives which seek to maximise their contribution to the well-being goals. In addition, the Welsh Ministers must take all reasonable steps, in exercising their functions, to meet their well-being objectives.

#### **Section 17 – Future Generations Commissioner for Wales**

70. Section 17 establishes the office of the Future Generations Commissioner for Wales, an individual appointed by the Welsh Ministers after consultation with the responsible committee of the National Assembly for Wales.
71. Subsection (4) gives effect to Schedule 2 which makes further provision about the office of the Commissioner.

## **Schedule 2 – The Future Generations Commissioner for Wales**

72. Paragraphs 1 to 5 contain technical provisions in respect of the status, terms, remuneration and other matters relating to the appointment of the Commissioner. Paragraph 3 prescribes that the Commissioner is to be appointed for a period of 7 years.
73. Paragraphs 6 and 7 detail the grounds on which individuals may be disqualified from being appointed as Commissioner and the arrangements for ending the Commissioner's appointment (other than through disqualification).
74. Paragraph 8 makes provision for the Commissioner to do anything she or he considers appropriate in connection with the Commissioner's functions, including charging for services, paying third parties for services and accepting gifts. The Commissioner may not provide financial support to acquire or dispose of land without the approval of the Welsh Ministers.
75. Paragraphs 9 and 10 make provision as regards the duty of the Commissioner to appoint a Deputy Commissioner, the powers of the Commissioner to appoint and pay staff and the ability to delegate functions of the Commissioner to any person including a member of their staff.
76. Paragraph 11 makes provision for the Deputy Commissioner to exercise the Commissioner's functions when the Commissioner's office is vacant, or if the Welsh Ministers are satisfied that for any reason she or he is unable to exercise those functions.
77. Paragraphs 12, 13 and 14 require the Commissioner to establish a procedure for investigating complaints regarding the exercise of their functions and to create and maintain a register of the Commissioner's and Deputy Commissioner's interests, making a copy available for inspection by the public. Paragraph 15 provides that the Commissioner and Deputy Commissioner must not exercise a function if she or he has registered an interest which relates to the exercise of that function.
78. Paragraph 16 provides the Welsh Ministers may pay the Commissioner amounts appropriate in respect of expenditure to carry out the functions of the Commissioner.
79. Paragraph 17 requires the Commissioner to produce an annual report covering each financial year; this report must be published no later than 31 August following the end of the financial year that it covers. The Commissioner must send the report to the Welsh Ministers who must lay it before the National Assembly.
80. In preparing this report, the Commissioner must consult the advisory panel (see section 26) and any other person the Commissioner considers appropriate. The annual report is to provide a summary of the Commissioner's work programme and detail the actions taken by the Commissioner during that financial year, an analysis of the Commissioner's effectiveness in enabling her or his general duty to be carried out, together with details of their proposed work programme for the following financial year and a summary of any complaints made. The report may include the Commissioner's assessment of the improvements public bodies should make in

order to be more consistent with the sustainable development principle when setting and meeting their well-being objectives.

81. Paragraph 17 also defines the Commissioner's first financial year for the purposes of the Act as running from the day on which the Commissioner is appointed up until the following 31 March.
82. Paragraphs 18 to 22 set out the responsibilities the Commissioner has as accounting officer and to provide for the preparation of estimates and accounts by the Commissioner, including any directions that can be given by the Welsh Ministers, and the auditing of accounts and the examination into the use of the Commissioner's resources by the Auditor General for Wales.
83. Paragraph 23 provides that the Commissioner may have a seal and provides that any document executed under this seal or signed by, or on behalf of, the Commissioner is to be received in evidence and, unless otherwise proven, taken to be a document of the Commissioner.

### **Sections 18 and 19 – Commissioner's general duty and functions**

84. Section 18 establishes that the general duty of the Commissioner is to promote the sustainable development principle, in particular to act as a guardian of the ability of future generations to meet their needs and to encourage public bodies to take greater account of the long-term impact of their activities. For this purpose, the Commissioner must also monitor and assess the meeting of the well-being objectives set by public bodies.
85. Section 19(1) provides that in carrying out her or his general duty, the Commissioner may provide advice or assistance (excluding financial assistance) to a public body or any other person that she or he believes is taking, or is seeking to take, action that may contribute to the well-being goals. This includes providing advice on climate change.
86. The Commissioner may provide advice or assistance to the Auditor General for Wales in respect of the sustainable development principle and public services boards about the preparation of their local well-being plan.
87. The Commissioner may also encourage best practice and promote awareness amongst public bodies as regards meeting their well-being objectives in a manner that is consistent with the sustainable development principle; and encourage public bodies to work with each other and with other persons if this could assist them in meeting their well-being objectives.
88. Section 19(2) confers power on the Commissioner to undertake research or other study in relation to the sustainable development principle, the extent to which the well-being goals and national indicators are consistent with the sustainable development principle and anything related to these things that impacts upon the economic, social, environmental and cultural well-being of Wales or any part of Wales.

## **Sections 20 to 22 – Reviews by the Commissioner, recommendations made and the duty to follow recommendations**

89. Section 20 provides for the Commissioner to conduct a review of the extent a public body, though this can relate to more than one public body, is safeguarding the ability of future generations to meet their needs by taking account of the long term impact what that body does. The Commissioner may review the steps taken by a body or which it proposes to take to meet its well-being objectives, the extent those well-being objectives are being met and whether in taking those steps it has acted in accordance with the sustainable development principle.
90. The Commissioner may make recommendations as a result of any review; this means the Commissioner may recommend a course of action that a public body should take in order to address a specific matter. These recommendations may be about the steps a public body has taken to meet its well-being objectives and how to set well-being objectives and take steps to meet them in line with the sustainable development principle. In respect of the Welsh Ministers these recommendations may also be about the well-being goals or the national indicators.
91. The Commissioner must publish any review she or he makes, and a copy of the review and its recommendations must be sent to the Welsh Ministers.
92. The Commissioner may require a public body to provide any information the Commissioner considers she or he needs to conduct the review. The Commissioner may only request the information if the body is not prohibited from disclosing the information by any other enactment or rule of law.
93. The Commissioner must publish any recommendations she or he makes, and a copy of the recommendations must be sent to the Welsh Ministers.
94. Section 22 requires public bodies to follow the course of action set out in any recommendation the Commissioner makes under section 20(4) of the Act. However, the body may disregard all or part of the recommendation should they be satisfied that there is good reason to do so. The body may also decide to follow an alternative course of action in respect of the matter to which the recommendation refers, but where it decides not follow the recommendation it must explain its response and the alternative action it intends to do instead.
95. Section 22(2) provides the Welsh Ministers with a power to prepare and issue guidance to the public bodies about how to respond to a recommendation of the Commissioner. When deciding how to respond to a recommendation, the public body must take any guidance issued by the Welsh Ministers under this power into account.

## **Sections 23 and 24 – Future Generations report and activity during the reporting period**

96. Section 23 requires the Commissioner to prepare a report detailing the improvements public bodies should make in order to set and meet their well-being objectives in a manner that is consistent with the sustainable development principle.
97. The Commissioner must publish this report before the end of the reporting period. The 'reporting period' runs from the day after the Welsh Ministers publish their future trends report under section 11 of the Act until the day one year and one day before the planned date of the next ordinary general election of the Assembly. The Welsh Ministers may, by regulations, amend the definition of the reporting period.
98. This report must include an assessment of how public bodies should better safeguard the ability of future generations to meet their needs and better consider the long-term impact of what they do. The report must also provide a summary of the evidence gathered and the activities undertaken by the Commissioner during the reporting period, a summary of reviews conducted in the reporting period, as well as the actions the Commissioner has undertaken in exercising their functions.
99. The Commissioner must send a copy of the report to the Welsh Ministers who must lay a copy before the National Assembly.
100. The Commissioner must consult with those people listed under section 24(1), as well as anyone else she or he considers appropriate, to ensure that economic, social, environmental and cultural interests are fully represented, during the reporting period and before publishing the Future Generations Report.
101. When preparing her or his Future Generations Report the Commissioner must take into account:
  - the responses of those people she or he consulted under section 24 (1);
  - the most recent future trends report prepared by the Welsh Ministers under section 11 of the Act; and
  - any relevant reports of the Auditor General for Wales.

## **Section 25 – Joint working**

102. Section 25 makes provision for the Commissioner when conducting a review to work jointly with other Commissioners, namely the Children's Commissioner for Wales, the Commissioner for Older People in Wales or the Welsh Language Commissioner.
103. This section applies if the Commissioner considers that a matter which she or he intends to review is the same, or significantly similar, to the subject matter of a review or inquiry being undertaken by any of the other Commissioners. The Commissioner may inform the other Commissioner(s) about her or his intention to conduct a review and consult with the other Commissioner(s).

104. The Commissioners may also co-operate with each other in relation to undertaking a review or inquiry and may jointly prepare a document that both provides the advice and reports the findings of the review or inquiry.

### **Sections 26, 27 and 28 – The advisory panel, appointed members and payment of panel members expenses**

105. Section 26 establishes an advisory panel. This is a panel of advisors who provide the Commissioner with advice on the exercise of her or his functions.
106. The statutory members of the panel are listed at section 26(2). The Welsh Ministers may appoint additional members to the advisory panel, these will be known as ‘appointed members’.
107. Prior to appointing an appointed member, the Welsh Ministers must consult with the Commissioner and consider any representations made by the Commissioner.
108. The Welsh Ministers determine the length of time an appointed member is to be appointed to the panel subject to a minimum period of 3 years and a maximum period of 5 years. An appointed member may only be re-appointed once. The appointed member may resign from the panel but must provide a minimum of 3 months’ notice in writing to the Welsh Ministers.
109. The Welsh Ministers may dismiss an appointed member, after consulting with the Commissioner, if they consider that member to be unfit to continue, or unable or unwilling to continue, with the role.
110. Section 28 provides Welsh Ministers with the ability to pay allowances and gratuities to the members of the advisory panel.

### **Section 29 – Public services boards**

111. Section 29 provides that there is to be a public services board for each local authority area in Wales. The members of the public services board are listed, with further provisions in paragraph 7 of Schedule 3 as to who must represent each of the members at meetings of the board.
112. The members of a public services board act jointly. As such, any function of a public services board is a function of each member and may only be exercised jointly with the other members.

### **Sections 30 and 31 – Invitations to participate**

113. Section 30(1) specifies certain individuals or organisations that public services boards must invite to participate in the activities of the board. These are individuals or organisations whose contribution to the work of the board is considered valuable but on whom it is either not possible or not desirable to impose a duty. Section 31(1) provides that these invitations must be issued as soon as reasonably practicable:
- after the first meeting of a public services board following its initial establishment; and then
  - after the board’s first meeting following an ordinary election, as defined in section 26 of the Local Government Act 1972.

114. The board may also invite any other person they consider appropriate, subject to that person exercising functions of a public nature. They may, however, also exercise other functions.
115. Any individual or organisation who accepts an invitation to participate on the board is considered to be an 'invited participant' and does not become a member of the board. Participating in the activity of the board means working jointly with the board, any member of it or any other person who accepts an invitation under section 30 to pursue the local aim. Under section 30(4) 'working jointly' includes:
- providing the board with their views on the content of their assessment of local well-being or their local well-being plan;
  - taking part in meetings of the board (which can include, following the invitation of the members of the Board and subject to paragraphs 2(1) and 3(1) of Schedule 3, chairing meetings of the Board); or
  - providing other advice and assistance to the board (this does not, however, include providing financial assistance).
116. An invited participant may participate in the activity of the board from the day on which the board receives their acceptance of the invitation until the date of the next ordinary election, as defined in section 26 of the Local Government Act 1972.

### **Section 32 – Other partners**

117. Section 32(1) specifies certain bodies and individuals whom a public services board must involve in the board's activities, which are known as 'other partners'.
118. 'Other partners' are individuals or bodies considered to be important providers of services and representatives of public interests. The board must seek the advice of their other partners and involve them in the activities of the board in the manner, and to the extent, that the board considers appropriate. This may include seeking their partners' advice on, or involving them in, the preparation, implementation and delivery of the board's local well-being plan.

### **Section 33 – Changes in participation**

119. The Welsh Ministers may, by regulations, amend the list of members, invited participants or other partners of public services boards, by adding or removing a person or amending their description. Prior to exercising this power, the Welsh Ministers must consult the members of the public services board(s) affected by the proposed regulations, and where they are adding a person, that person.
120. Only a person that has public functions may be added to section 29(2) as a member of public services boards. If the person exercises both public and other functions, only their public functions can be subject to Part 4 of the Act.

### **Section 34 – Meetings and terms of reference**

121. This section gives effect to Schedule 3, which makes further provision about the meetings and terms of reference for public services boards.

### **Schedule 3 – Public services boards: further provisions**

122. Paragraph 1 establishes that the quorum of the public services board is all of its members. This means that all members must be in attendance at a meeting for the decisions made during that meeting to be considered valid.

123. Paragraphs 2 and 3 make provision as regards timings of meeting. A public services board must hold its ‘first meeting’, chaired by the local authority, no later than 60 days after the board is first established by the local authority. The board must also hold a ‘mandatory meeting’, chaired by the local authority, no later than 60 days after an ordinary election, as defined in section 26 of the Local Government Act 1972.

124. Paragraph 4 requires the public services board to agree its terms of reference at its ‘first meeting’. Subparagraph (2) details the matters to be covered by the terms of reference. The board may review its terms of reference as it sees fit but must review them at the ‘mandatory meeting’ held following an ordinary election. Following a review the board may amend their terms of reference.

125. Paragraph 5 requires the local authority to provide administrative support to the public services board.

126. Paragraph 6 makes provisions as regards the establishment of sub-groups of a public services board and the ability of those sub-groups to exercise the functions of the board. A sub-group of the public services board may not:

- invite persons to participate under section 30 of the Act;
- set, review or revise the board’s local objectives;
- prepare or publish an assessment of local well-being
- consult on a draft assessment of local well-being or prepare a draft assessment for the purposes of consulting;
- prepare or publish a local well-being plan
- consult on a draft local well-being plan or prepare a draft local well-being plan for the purposes of consulting;
- review or amend a local well-being plan, publish an amended local well-being plan or consult on a draft of an amended local well-being plan
- consult under section 44
- agree that the board –
  - (i) merges with another public services board under section 47(1), or
  - (ii) collaborates with another board under section 48(1).

127. Paragraph 7 details the individuals who must represent each member of the board. Invited participants may designate the individual who is to represent them. The public services board may also invite any of its other partners to attend a meeting or any part of a meeting.



### **Section 35 – Overview and scrutiny committee of local authority**

128. Section 35 requires each local authority to ensure its overview and scrutiny committee has the power to:
- review or scrutinise the decisions made or actions taken by the public services board in the exercise of its functions;
  - review or scrutinise the board’s governance arrangements;
  - make reports or recommendations to the Welsh Ministers;
  - consider such matters relating to the board as the Welsh Ministers may refer to it and report to the Welsh Ministers accordingly; and
  - carry out such other functions in relation to the board as are imposed on it by the Act.
129. The local authority will do so through the ‘executive arrangements’ it is required to make under Part 2 of the Local Government Act 2000. Executive arrangements are arrangements for the setting up and operation by a local authority of an executive, which has responsibility for certain functions of the authority.
130. The committee must send a copy of any report or recommendation it makes in under subsection (1)(c) to the Welsh Ministers, the Commissioner and the Auditor General for Wales.
131. An overview and scrutiny committee may, when undertaking the functions provided for under subsection (1), require one or more of the persons who may attend a meeting of a public services board, or anyone designated by such a person, to attend a committee meeting and provide the committee with an explanation of any such matters as it requires.
132. Where a local authority has more than one overview and scrutiny committee, the reference in Part 4 of the Act to its overview and scrutiny committee are to the committee the local authority designates for the purpose of section 35.

### **Section 36 – Well-being duty on public services boards**

133. Section 36 sets out the well-being duty on public services boards, that a board must improve the economic, social, environmental and cultural well-being of its area by contributing to the achievement of the well-being goals. In accordance with the sustainable development principle, each public services board must assess the state of economic, social, environmental and cultural well-being in its area, set local objectives and take all reasonable steps, in exercising its functions, to meet those objectives, which are designed to maximise the board’s contribution to the achievement of the well-being goals. Anything a public services board does under this section must be done in accordance with the sustainable development principle.

### **Sections 37 and 38– Assessments of local well-being**

134. Section 37(1) requires each public services board to undertake an assessment of the economic, social, environmental and cultural well-being of its area.

135. This assessment of local well-being must be published at least 12 months before they publish their local well-being plan. Section 39 of the Act provides that the local well-being plan must be published no later than one year after an ordinary election, as defined in section 26 of the Local Government Act 1972. As such, the assessment of well-being would be published within the 12 months preceding each ordinary local government election.
136. The assessment must identify the community areas within the board's area. It is intended that these 'community areas' are areas within the board's area which are large enough to show differences between them and have a sense of identity but not as small as electoral wards. The assessment must provide an analysis of the state of well-being of:
  - the board's area as a whole;
  - each of the communities within the board's area.
137. The assessment may also include analysis of particular categories of persons determined by the board, including persons who are vulnerable or otherwise disadvantaged, persons possessing a common protected characteristic under the Equality Act 2010, children, young people entitled to support under sections 105 to 115 of the Social Services and Well-being (Wales) Act 2014, persons who may have need for care and support or those providing care and support and persons sharing any other common factor the Board considers appropriate.
138. Assessing the well-being of each community is intended to ensure that the differences between the various communities within a public services board's area are analysed. The communities within each area will be determined by regulations made by the Welsh Ministers or, if no such regulations have been made, the board.
139. Whilst the board may give consideration to aligning these communities with existing community networks such as a local authority's 'neighbourhoods', health 'locality networks' or clusters of community councils, the communities identified for the purpose of the assessment will not necessarily correspond with the community councils within the board's area.
140. The assessment must include any further analysis that the board carries out by reference to criteria set and applied by it for the purpose of assessing economic, social, environmental and cultural well-being in the area or in any community situated in the area.
141. The assessment must also include predictions of likely future trends and any other analytical data and information relating to the well-being of the area that the board considers appropriate.

142. In undertaking the analysis that informs the assessment of well-being, the board must refer to:
- any national indicators, as published under section 10 of the Act; and
  - any of the future trends reports published by the Welsh Ministers under section 11 if they are relevant to the assessment of well-being in the area.
143. Section 38(3) defines a number of statutory reviews and assessments, the findings of which the board must consider when preparing their assessment. The Welsh Ministers can specify, by regulations, any other reviews or assessments that they wish the board to consider.
144. Prior to publishing their assessment of local well-being, a public services board must consult with those people listed in section 38(1). The board must provide each of the people listed with a copy of their draft assessment.
145. A public services board must send a copy of its assessment to the Welsh Ministers, the Commissioner, the Auditor General for Wales and the local authority's overview and scrutiny committee.

### **Sections 39 – Local well-being plans**

146. Each public services board must, under section 39(1), prepare and publish a local well-being plan.
147. A board's first local well-being plan must be published no later than 12 months following the first ordinary election, as defined in section 26 of the Local Government Act 1972, held after the commencement of this section. The board must then publish a local well-being plan no later than 12 months after each subsequent ordinary election. Those requirements are subject to any transitional provisions the Welsh Ministers may make.
148. The local well-being plan will set out how the board intends to improve the economic, social, environmental and cultural well-being of its area and therefore contribute to the well-being goals. It has to include objectives which will maximise the contribution made by the board to achieving the well-being goals (see section 4) in its area. A plan may include a local objective which is to be met by steps which are to be taken by an invited participant or other partner only if the board has obtained their agreement.
149. The members of the board are also 'public bodies' for the purpose of Parts 1 – 3 of the Act and as such must, under sections 3 and 7 of the Act, set well-being objectives. These members, namely the local authority, local health board, fire and rescue authority and Natural Resources Wales, may choose to include their well-being objectives in the local well-being plan.
150. The objectives included in the local well-being plan must accord with the sustainable development principle, namely the need to ensure that action taken by public bodies to improve the well-being of people now doesn't impact the ability of future generations to meet their own needs. The board must take all reasonable steps to meet their well-being objectives, in accordance with the sustainable development principle.

151. The local well-being plan must include a statement explaining why the board considers that:
  - the objectives will contribute within the relevant area to achieving the well-being goals;
  - the objectives will address any matters mentioned in their latest assessment of local well-being; and
  - the timeframe within which the board expects to meet its objectives.
152. The plan must also include a statement setting out how the board proposes to take steps to meet the objectives in accordance with the sustainable development principle (see section 5).
153. The plan may include objectives that are to be met or actions to be taken by one or more members of the board, invited participants or other partners acting individually or jointly. Where these objectives are to be met by one or more members of the board, invited participants or other partners acting jointly, the statement must specify the persons that make up the combination.
154. For subsequent local well-being plans, the statement must detail the steps the board has taken to meet the objectives set out in the board's previous local well-being plan and the extent to which those objectives have been met.
155. A public services board must send a copy of its local well-being plan to the Welsh Ministers, the Commissioner, the Auditor General for Wales and the local authority's overview and scrutiny committee.

#### **Section 40 – Local well-being plans: role of community councils**

156. Section 40 places a duty on specified community councils to take all reasonable steps towards meeting the objectives included in the local well-being plan for their area.
157. This section sets out the criteria for specifying which community councils are subject to this duty, the criteria are currently expressed as a financial threshold. Only those community councils whose gross income or gross expenditure was at least £200,000 for each of the three financial years preceding the year in which the local well-being plan was published are subject to this duty. These community councils will remain subject to the duty until a new local well-being plan is published following each subsequent ordinary election, as defined in section 26 of the Local Government Act 1972, at which point the community council will determine whether they remain subject to the duty by applying the criteria.
158. The Welsh Ministers may amend these criteria. In specifying the revised criteria, the Welsh Ministers may reflect provisions made in respect of community councils in regulations made under section 39 of the Public Audit (Wales) Act 2004. From 31 March 2015, the relevant regulations will be the Accounts and Audit (Wales) Regulations 2014.

159. Prior to exercising their powers to amend the criteria, the Welsh Ministers must consult the Commissioner, any community council that would be affected by the change, and any other person that they consider appropriate.
160. Where a community council is subject to the duty, it must publish a report for each relevant financial year, detailing its progress in meeting the objectives contained in the local well-being plan. The Welsh Ministers are under a duty to issue guidance to community councils who are subject to the duty and those councils must take such guidance into account when discharging the duty.

**Sections 41, 42 and 43 – Preparation of local well-being plans: information about activities of others, Commissioner’s advice and further consultation and approval**

161. These sections set out what a public services board can and must do before publishing its local well-being plan. Before consulting on the plan, the board may require any person invited to participate (other than the Welsh Ministers) or its other partners to provide information about any of their activities that may contribute within the board’ area to achieving the well-being goals.
162. The board must also seek the advice of the Commissioner. This advice will relate to how the public services board can meet their proposed objectives in a manner that is consistent with the sustainable development principle.
163. The Commissioner must provide written advice within 14 weeks of the board seeking it. The board must publish this advice alongside its local well-being plan.
164. Section 43 provides that, prior to publishing their local well-being plan the board must consult, for a minimum of 12 weeks, with those people listed at section 43(1). The board must provide each of the people listed with a copy of their draft local well-being plan as part of the consultation.
165. Where a local authority is operating executive arrangements under Part 2 of the Local Government Act 2000, the local well-being plan may not be approved for publication by an executive of the authority under those arrangements. In addition, section 101 of the Local Government Act 1972 (discharge of functions by committees etc.) does not apply to the approval of local well-being plans for publication.
166. In respect of a Local Health Board, Welsh fire and rescue authority and the National Resources Body for Wales, the local well-being plan may only be approved for publication at a meeting of the body in question.

#### **Section 44 – Review of local well-being plans**

167. Section 44 allows a public services board to review, revise and amend its local objectives or local well-being plan as it sees fit. The board must review its objectives or plan if directed to do so by the Welsh Ministers. If the Welsh Ministers direct a board to review its local objectives or local well-being plan, the Welsh Ministers must publish a statement containing their reasons for the direction.
168. Before amending its plan, the board must consult the Commissioner and the people listed under section 43(1) of the Act.
169. The amended plan must be published as soon as reasonably practicable and a copy sent to the Welsh Ministers, the Commissioner, the Auditor General for Wales and the local authority's overview and scrutiny committee.

#### **Section 45 – Annual progress reports**

170. Section 45 provides that the public services board must prepare an annual progress report specifying the steps they have taken, since publishing their latest local well-being plan, to meet the objectives set out in that plan. The report may also contain any other information that the board considers appropriate.
171. A board must publish this report no later than 14 months after the publication of its first local well-being plan, and then no later than 14 months after each subsequent progress report.
172. The board does not need to prepare a progress report during the year in which their local well-being plan is being prepared. This would be the 14 month period after each ordinary election, as defined in section 26 of the Local Government Act 1972.
173. A public services board must send a copy of their annual progress report to the Welsh Ministers, the Commissioner, the Auditor General for Wales and the local authority's overview and scrutiny committee.

#### **Section 46 – Modification of enactments**

174. This section gives effect to Schedule 4.

#### **Schedule 4 – Public services boards: consequential amendments and repeals**

175. Schedule 4 lists the minor and consequential amendments made by the Act to a number of enactments containing provisions relating to the publication of assessments of local well-being and local well-being plans. It also makes consequential amendments to the Public Audit (Wales) Act 2013 and the Social Services and Well-being (Wales) Act 2014.

### **Section 47 – Merging public services boards**

176. This section provides that two or more public services boards may merge if they consider it would assist them in contributing to the achievement of the well-being goals. In addition, the Welsh Ministers may, by virtue of subsection (2), direct two or more public services boards to merge if the Welsh Ministers consider that it would assist the boards in contributing to the achievement of the well-being goals.
177. The boards may only merge if the same Local Health Board is a member of each board and no other Local Health Board(s) are a member.
178. Following the merging of two or more boards, any references to a public services board means the merged board, and any references to the board's area means the combined areas of the local authorities that are members of the merged boards.

### **Section 48 – Collaboration between public services boards**

179. Section 48 provides that two or more public services boards may collaborate if they consider it would assist them in contributing to the achievement of the well-being goals. In addition, the Welsh Ministers may, by virtue of subsection (2), direct two or more public services boards to collaborate in whatever way the Welsh Ministers consider would assist the boards in contributing to the achievement of the well-being goals.
180. A public services board can be considered to be collaborating for the purposes of section 48 if it:
- co-operates with another board;
  - facilitates the activities of another board;
  - co-ordinates its activities with another board;
  - exercises another board's functions on its behalf;
  - provides staff, goods, services or accommodation to another board.

### **Section 49 – Directions to merge or collaborate**

181. This section provides that before directing two or more boards to merge, under section 47 of the Act, or to collaborate, under section 48 of the Act, the Welsh Ministers must consult each member of the boards they intend to direct.
182. When giving such a direction the Welsh Ministers must publish a statement containing their reasons for giving it.

### **Section 50 – Performance indicators and standards**

183. This section enables the Welsh Ministers to set, in regulations, indicators and standards by which the performance of each public services board can be measured.
184. Prior making these regulations, the Welsh Ministers must consult the members of the public services board(s), or persons the Welsh Ministers consider represent those members, and any other person the Welsh Ministers consider appropriate.

### **Section 51 – Guidance**

185. This section places on the Welsh Ministers a duty to prepare and issue guidance to public services boards in respect of the provisions of Part 4 of the Act.
186. A public services board must take such guidance into account when exercising functions or discharging duties provided for under Part 4 of the Act.

### **Section 52 – Meaning of “public body”: further provision**

187. Subsection (1) enables the Welsh Ministers to amend the list of public bodies, provided for at section 6(1) of the Act. The Welsh Ministers may add or remove a public body or amend the description of a public body.
188. Only bodies that have public functions may be added to the list. If the body exercises both public and other functions, only their public functions can be subject to the provisions of the Act.
189. Prior to exercising this power, the Welsh Ministers must consult the Commissioner and any other person that they consider appropriate.

### **Section 53 – Power to make consequential etc. provision**

190. Section 53 provides that the Welsh Ministers may make regulations to make consequential, incidental, supplemental, transitory or saving provisions in respect of giving full effect to the Act.
191. Any regulations made under this power may amend, repeal or revoke any enactment contained in, or any statutory instrument made under an Act of Parliament or a Measure or Act of the National Assembly including both this Act and any enactment passed or made after the passing of this Act.

### **Section 54 – Regulations**

192. This section makes further provision in relation to the making of regulations under this Act. These regulations may make different provision for different purposes or areas and may include incidental, supplemental, consequential, transitory or saving provisions. Any regulations made by the Welsh Ministers in accordance with the provisions of the Act are to be made by statutory instrument.
193. Subsection (4) specifies the regulations which are to be subject to the affirmative procedure, with all other regulations being subject to the negative procedure.



*These notes refer to the Well-being of Future Generations (Wales) Act 2015 (anaw 2)  
which received Royal Assent on 29 April 2015*

### **Section 56 – Commencement**

194. This section provides for sections 53, 54, 55, 56 and 57 to automatically come into force the day after the Act received Royal Assent.
195. The remaining provisions of the Act will come into force on the day specified by the Welsh Ministers by order.

### **RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES**

196. The following table sets out the dates for each stage of the Act's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Act can be found on the National Assembly for Wales' website at: <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=010103>

<b>Stage</b>	<b>Date</b>
Introduced	7 July 2014
Stage 1 - Debate	9 December 2014
Stage 2 Scrutiny Committee - consideration of amendments	5 February 2015
Stage 3 Plenary - consideration of amendments	10 March 2015
Stage 4 Approved by the Assembly	17 March 2015
Royal Assent	29 April 2015