Wellbeing and Sustainable Development Bill
Stage 1 Debate Briefing
Children and Young People's Commissioner Scotland

21 January 2026

Established by the Commissioner for Children and Young People (Scotland) Act 2003, the Commissioner is responsible for promoting and safeguarding the rights of all children and young people in Scotland, giving particular attention to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner has powers to review law, policy and practice and to take action to promote and protect rights.

The Commissioner is fully independent of the Scottish Government.

This briefing sets out our views on the proposed Wellbeing and Sustainable Development Bill, ahead of its Stage 1 debate on 22 January 2026.

The Commissioner supports efforts to improve sustainable development in Scotland, including through legislative means. However, in our view this Bill is unlikely to make a meaningful difference to sustainable development and instead creates risks of legal confusion and overlap. While it has worthwhile policy aims, we are concerned that the Bill:

- Contains vague and broad definitions, in particular of the term wellbeing, which mirror existing human rights protections. Human rights being fulfilled is in our view central to enabling wellbeing, and these rights are already protected by strong legal standards. Creating additional but ambiguous due regard duties around them risks creating unhelpful confusion. These types of duties require significant resource to embed and in our view this is best focused on embedding existing UNCRC duties and any proposed human rights duties which may be put in place through a Human Rights Bill.
- Will be ineffective in promoting sustainable development, due to the vague way it is defined and the lack of clarity created for any due regard duty.
- Fails to demonstrate the necessity for a Future Generations Commissioner as set out in the Bill. The SPCB Supported Bodies Landscape Review recommended specific criteria are considered for the creation of new bodies, and in our view and that of the Committee, these have not been met. The proposed Commissioner is likely to have significant overlap with the remits of existing human rights and other bodies, including CYPCS.

We therefore agree with the Social Justice and Social Security Committee that that the Bill should not proceed past Stage 1.

Wellbeing

Wellbeing is defined in the Bill as the enjoyment of things like personal dignity, freedom from abuse, good health and an adequate standard of living. These reflect

the enjoyment of core human rights already guaranteed in UK and Scottish law, for example:

- for section 3(1)(a) ("personal dignity, including respect for their choices and beliefs") the right to private and family life, freedom of thought, conscience and religion, and freedom of expression, protected in Articles 8, 9 and 10 ECHR, and equivalent rights under UNCRC as well as children's right to be heard under Article 12 UNCRC.
- for section 3(1)(b) ("freedom from fear, oppression, abuse and neglect"), freedom from torture under Article 3 ECHR and children's right to be free from violence, abuse and neglect under Article 19 UNCRC
- for section 3(1)(c)("good physical, mental and emotional health"), the right to health under Article 12 ICESCR and Article 24 UNCRC
- for section 3(1)(d), the right to work under Article 6 ICESCR, the right to education under Article 2 of Protocol 1 ECHR, and the rights to education and play under Articles 28 and 31 UNCRC
- for section 3(1)(e), the right to an adequate standard of living under Article 27 UNCRC and Article 11 ICESCR.

As we noted in our response to the Scottish Government's previous Bill proposal[1], and in evidence to the Committee on this Bill[2], wellbeing is a relative concept, which is challenging to define in law and generally better suited to the policy context.

We are concerned that the way the term is defined in the Bill will create significant confusion in the law, given that public authorities already have existing stronger duties to comply with human rights laws under the Human Rights Act 1998, United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, and any future Scottish Human Rights Bill. Given the strong accountability mechanisms associated with such protections we do not believe a less clear and less onerous duty to promote wellbeing will be effective. It may instead cause confusion.

We view wellbeing from a human rights perspective and see the fulfilment of human rights as key to everyone's wellbeing, including children. As we said in our evidence to Committee, when children's rights, views and best interests are considered at all stages of policy and decision-making, and their rights are protected fully, this has a direct impact on improving their wellbeing. The universal and indivisible set of rights under the UNCRC and wider international human rights framework create the conditions for wellbeing and ensuring full and effective implementation of the UNCRC Act must be a priority.

Given the recent human rights protections introduced through the UNCRC Act, and potential for further similar protections to be introduced, it is our view that resources are best spent on ensuring these protections are fully implemented and effective, including through the creation of effective guidance.

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[1] CYPCS, 2024. *Wellbeing and Sustainable Development Bill - Consultation* https://www.cypcs.org.uk/wpcypcs/wp-content/uploads/2024/06/Wellbeing-and-Sustainable-Development-Bill-Consultation-Response.pdf

[2] CYPCS, 2025. *Social Justice and Social Security Committee: Call for views on the Wellbeing and Sustainable Development (Scotland) Bill.* https://www.cypcs.org.uk/resources/social-justice-and-social-security-committee-call-for-views-on-the-wellbeing-and-sustainable-development-scotland-bill/

Sustainable Development

Climate change and the need for sustainable development are key concerns for the children we speak to, and they have a significant impact on children's rights now and in the future.

The Scottish Government's previous proposed Bill sought to define sustainable development in line with the internationally accepted definition, which is "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". However, the Bill in section 2 instead makes reference to sustainable development improving wellbeing.

Any effort to legislate around sustainable development should seek to align with the internationally accepted definition aligned to the UN Sustainable Development Goals, and provide sufficient clarity.

As we raised in oral evidence to the Committee, the Welsh Future Generations Act by comparison takes a different approach by tying duties to a set of specific objectives and actions towards achieving these. Even with these stronger and clearer duties a review found limited evidence of effective system change as a result. The current proposal therefore seems unlikely to be effective in pushing action from public authorities.

While we see value in improving consideration of sustainable development, we recommend Parliament and Government thoroughly consider other options for embedding sustainable development in policy and practice, including strengthening existing duties, guidance and accountability mechanisms.

Future Generations Commissioner

We do not support the establishment of a Future Generations Commissioner as set out in section 4 of the Bill.

As noted above, we are concerned about the broad and vague nature of wellbeing and sustainable development as defined in the Bill. Creating a Commissioner role to oversee a due regard duty on the basis of these definitions is likely to lead to significant confusion and overlap with other oversight bodies. It is also likely to create uncertainty for public authorities trying to comply with a range of other stronger duties including under the Human Rights Act, UNCRC Act, and a potential future Human Rights Bill for Scotland.

We believe it will be more effective to enhance the powers of existing bodies to enable them to enable them to effectively hold public authorities to account on human rights.

The SPCB Supported Bodies Landscape Review recommended specific considerations when adopting new commissioners, alongside a moratorium on the creation of new ones. These considerations included only creating new Commissioners where they were clearly necessary, as a measure of last resort, and where they had a clear remit. In our view the necessity of a Commissioner has not been demonstrated and its remit is likely to overlap with existing human rights bodies including CYPCS, due to the way terms are defined in the Bill.

These concerns were also noted by the Social Justice and Social Security Committee in its report, which highlighted eight bodies which would have potential

overlap with the Commissioner role, and found the proposal did not meet the criteria set out in the SPCB review.

Conclusion

While the Commissioner supports efforts to improve accountability for sustainable development, we consider that the current Bill is unlikely to be effective and will instead be unhelpful to efforts to embed human rights. Alternative approaches to improving sustainable development, including consideration as part of National Performance Framework reform, should instead be considered.

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