

Improving Well-being and Equality Outcomes:

Aligning processes, supporting implementation and
creating new opportunities

The report of the Well-being and Equality Working Group

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Abbreviations

AGW	Auditor General Wales
EA	Equality Act
EHRE	Equality and Human Rights Exchange
EHRC	Equality and Human Rights Commission
FGC	Future Generations Commission/er
GER	Gender Equality Review
IWF	Is Wales Fairer?
LA	Local Authority
LG	Local Government
LHB	Local Health Board
NPBSG	National Public Bodies Sharing Group
PA	Positive Action
PB	Public Body
PC	Protected Characteristics
PNA	Population Needs Assessment
PSB	Public Services Board
PSED	Public Sector Equality Duty
RPBs	Regional Partnership Boards
SEP	Strategic Equality Plan
SSWB	Social Services and Well-being Act
VAWDASV	Violence Against Women, Domestic Abuse and Sexual Violence Act
WAO	Wales Audit Office
WB	Well-being
WFG	Well-being of Future Generations Act
WG	Welsh Government
WGP	Working Group
WSED	Welsh Specific Equality Duties

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Executive Summary

In 2018, the then First Minister commissioned a *Gender Equality Review* (GER) to explore how the Welsh Government could ensure that ambitions for gender equality are put at the heart of decision and policy-making, make Wales the safest place for women in Europe, and draw from the principles of feminist government that underpin open government in Canada and Sweden.¹

This report responds to GER recommendations that key stakeholders should assess how to strengthen the integration of legislation and policy-making for well-being, equality, domestic abuse and sexual violence, and social care, with the aim of improving implementation and outcomes. Having considered this, to then assess whether the current legislation can effectively support the Welsh Government's new vision for gender equality in Wales, which is, 'an equal sharing of power, influence and resource' (Welsh Government, 2019).

A collaborative stakeholder Working Group (WGP) from the relevant statutory Commissions and Welsh Government was formed to address these questions. The membership of the WGP is listed at Appendix 2.

This is the report of the Working Group's information gathering and analysis, and an initial test of emerging recommendations with a wider group of stakeholders. In recognition of the distinctiveness of statutory duties across the legislation, and that anti-discrimination and the Public Sector Equality Duty (PSED) is not devolved, the WGP has considered how to align rather than integrate the legislation.

We also note, as a starting point, that current legislation is premised on process compliance and that, in relation to the *Public Sector* and *Wales Specific Equality Duties* (PSED and WSED) at least, this has not led to ambitious objectives or plans, and subsequently not produced the anticipated improvement in outcomes. Therefore, aligning processes alone will not necessarily lead to improved well-being and equality, or support the vision for gender equality.

The WGP has noted that the connections, and sometimes inter-relationships, between well-being and equality have not been widely articulated. Conceptually, there are many different ways to understand well-being and equality. How they are understood directs action. Accordingly, in addition to providing a valuable mapping of existing legislation (Appendix 3), we consider how the concepts of well-being, equality and human rights might inter-relate,

¹ Chwarae Teg Phase 1 Overview: <https://www.cteg.org.uk/wp-content/uploads/2018/07/Rapid-Review-of-Gender-Equality-Phase-One-Summary-Report.pdf>
Parken (WCPP) International best practice review: <https://www.wcpp.org.uk/wp-content/uploads/2018/07/Putting-equality-at-the-heart-of-decisionmaking-corrected-final.pdf>

or where they are distinct, how to preserve this distinctiveness while operating them in unison.

We identify opportunities for process alignment, but also consider how to embed the aims of well-being and equalities legislation in the normal business of organisations. This includes reconsidering the ways in which we think about protected characteristics in relation to equality, and how exploratory, reflexive institutional learning might underpin the setting of more ambitious strategic plans.

We have also taken the dynamic environment for equality policy-making in Wales into account by considering how prospective developments might strengthen existing legislation. Our recommendations outline how the introduction of the 'socio-economic duty' and new Welsh Specific Equality Duties (WSEDs) within the next 12-18 months, the gender road-map (June 2019), and the potential further incorporation of human rights conventions, could also support mutually reinforcing outcomes across the frameworks. The manner in which the UK leaves the European Union may have considerable impact on equality and human rights legislation. While we have not attempted to anticipate these unknown outcomes, our suggestions may safeguard, extend and strengthen existing legislation.

Besides recommendations for Welsh Government, we also consider recommendations for the Future Generations Commission (FGC) and the Equality and Human Rights Commission (EHRC), and recommendations that may impact on public bodies more broadly. This is in keeping with a systems approach that recognises the need for connected and reflexive action when addressing complex or 'wicked' social, cultural, environmental and economic problems. However, it is important to note that not all of the members agree all of the recommendations. Therefore, we present the recommendations on the basis that they will require further collaborative exploration on how to take them forward.

Each section of the report summarises the current legislative aims, duties and process requirements, analyses why these may be insufficient, and suggests improvements. We would encourage readers to understand the background to our recommendations by reading the full report. Our recommendations are summarised here in three parts: opportunities for process alignment, building capacity to improve outcomes, and the consideration of the opportunities afforded by the commencement of the 'socio-economic duty' and revision and renewal of the Welsh Specific Equality Duties.

Recommendations

Opportunities for Process Alignment

1) Align timescales for planning and reporting. During engagement with public bodies on alignment ideas, many of our suggestions were welcomed. Addressing the current misalignment of timescales was viewed as the first, and most necessary step, to aligning engagement, objective-setting, delivery, planning and reporting.

The current set of Strategic Equality Plans (SEP) run from 2016 to 2020. Public authorities are consulting now to inform a new set of equality objectives and a SEP to run from 2020-2024. The new WG equality objectives, being consulted on now, will be based on the existing suite of Welsh Specific Equality Duties, which will be reviewed within the next 12-18 months. The Welsh Government's *National Strategy on Violence Against Women, Domestic Abuse and Sexual Violence* (VAWDASV) is renewed every five years, and currently runs until 2021. The strategic plans of public bodies for VAWDASV may run until 2022, and their Social Services and Well-being plans run from 2018 - 23.

The current Welsh Ministers' Well-being Statement must be renewed within six months of the next Assembly election (due in 2021) but it, and WB objectives can be reviewed at any time. The Well-being Statements and objectives of public bodies can also be reviewed at any time (with changes likely to impact on PSB well-being plans), but a new WB statement is required within 12 months of local government elections, and according to the sustainability principle, it is likely that public bodies may change their well-being objectives to reflect changed priorities within the Welsh Ministers' well-being Statements.²

We recommend that stakeholders decide upon a point in time at which Welsh Government and public bodies might align the processes for engaging/involving, objective-setting and planning delivery against their well-being and equality objectives in order that they cross-refer where appropriate. We set out some options for aligning timescales in the body of the report. Whichever route is adopted, this step facilitates our further recommendations for mutually reinforcing assessments, engagement, objective-setting, SEPs, joint guidance, and joint monitoring.

2) Incorporation within corporate plans. The joint incorporation of objectives and strategic plans for well-being, equality and VAWDASV within corporate plans (or equivalent guiding document - WFG already suggests this), would situate their aims and outcomes within the core business of organisations.³ It may also increase awareness of the connections between

² Public bodies publish a well-being statement and objectives. Public Services Boards publish well-being plans and objectives.

³ Cross-referral to corporate plans for SSWB in consideration of existing planning requirements

well-being and equality among staff working in different policy areas. In particular, closer alignment offers the EHRC the opportunity to influence heads of services in public bodies.

Sport Wales, a member of the National Public Bodies Sharing Group (NPBSG) further recommends that annual reporting for well-being and equality is incorporated within organisational performance review, as this would also bring it within internal audit functions.

3) Public bodies and Footprint. There is variation in the coverage of public bodies in relation to statutory duties, and the geographical and/or demographic footprint within which they operate. We recommend mechanisms that will ensure that Public Services Boards (PSBs), Regional Partnership Boards (RPBs), Regional Learning and Skills Partnerships and 'City Deal' governance structures (even though the latter requires reporting to UK Government), demonstrate how their work has promoted equality and well-being.

The latter two are particularly important to ensuring equality outcomes should they administer *Shared Prosperity* funds in Wales. If bringing these bodies within scope of the equality duties is problematic since they do not have a 'legal personality', a softer mechanism such as Ministerial Remit Letters or using internal audit mechanisms might be appropriate.

4) Integrate equality into local well-being assessments. Our engagement work showed that thinking on equality and well-being is often organisationally 'siloes'. Although the WFG requires consideration of inequalities within the local well-being assessments, our review of well-being objectives and the steps to achieving these, shows that this could be strengthened. Integrating equality and well-being research information in the assessments will also help to draw out the structural dimensions of inequality needed for planning to address socio-economic inequalities, in both sets of duties. Data from such assessments could also inform strategic plans for VAWDASV and enhance cross-referral to the SSWB population needs assessment, and vice versa.

5) Engagement and Involvement. Both WFG and WSED require engagement and/ or involvement to inform objective-setting. In addition, the well-being duty requires engagement and involvement that reflects the diversity of the areas that the public body serves, in the development of well-being plans. On the basis that timescales can be aligned, undertaking these activities jointly may help to demonstrate areas where the inter-relationships between equality, well-being and VAWDASV reveal common issues and solutions.

We recommend that the FGC and EHRC issue a combined engagement and involvement framework using the principles of the WFG Act and the PSED. In addition to improving these important mechanisms for policy development, the framework should actively foster links between staff responsible for equalities and well-being within public authorities. Using the

reflexive learning approach, joint seminars on operating the legislation on an intersecting basis could support better outcomes.

6) **Objective-setting.** Encouraging public bodies to set mutually reinforcing well-being, SSWB, VAWDASV and equality objectives could promote more efficient and effective implementation.

Setting equality objectives by using the 'five ways of working' could enhance integration and collaboration across policy areas and encourage public bodies to set strategic and preventative equality objectives, and take a long-term approach to tackling entrenched structural inequalities where necessary, as well as setting short-term objectives (see suggestions for new WSEDs below).

7) **Well-being and Equality Statement and Plans.** If the recommendations for co-produced assessments, engagement/involvement and objective setting are accepted, then opportunity is created for cross-referral between plans for WFG, VAWDASV and SSWB and WSED. Differences in respect of aims, timescales, coverage and footprint (PBs, PSBs and RPBs) currently preclude the possibility of producing one plan to cover all requirements.

Sport Wales (a member of the National Public Bodies Sharing Group, NPBSG) also recommends that well-being statements and plans should be subject to equalities impact assessment.

8) **Monitoring and Scrutiny.** Since the legislation is mainly process-led, it follows that monitoring is process-compliance led. However, we have set out the potential for improved reflexive evaluative that would recognise and value the contributions that public bodies can make to goals and outcomes.

The Working Group also considers that regulators and inspectorates must have a more prominent role in assessing how equality and well-being is being promoted through policy delivery, as well as checking for compliance with the duties. This may require new regulation (changes to WSEDs). The view is that if equality and well-being are assessed as being central to core business of public body, responsive and reflexive well-being and equality law would be normalised within policy development, service design and delivery. Currently, it can be considered as an 'add-on' to 'business as usual'. These frameworks should be causing public bodies to question how 'the usual', creates poor well-being and/or inequalities.

This is also an opportunity to simplify monitoring and scrutiny requirements, at the same time as aligning assessment, engagement and reporting requirements, and to consider how such mechanisms can improve outcomes. Further, recommendations for monitoring and scrutiny, including adopting the learning from the FGC/WAO MOU, and requiring the EHRC

to 'lay' annual reports and triennial reviews before the National Assembly, are provided in the body of the report.

9) **Enforcement.** Accountability and enforcement powers vary across the frameworks (See Appendix 3). The Equality and Human Rights Commission has powers under the *Equality Act, 2006* to carry out assessments and issue compliance notices in relation to the operation of the PSED. Following such a notice, court action can result from non-compliance.

The Future Generations Commissioner has the power to review the steps public bodies have taken, or propose to take, to meet their well-being objectives; the extent to which bodies are meeting their well-being objectives, and whether public bodies have set well-being objectives and taken steps to meet them in accordance with the sustainable development principle.

The FGC and EHRC have previously considered their separate review and enforcement powers and whether they may act in concert. Enhanced information sharing between the Commissions and regulators and inspectorates, may identify bodies that need further encouragement to fulfil their well-being and equality duties in a meaningful way. This may require greater alignment of work plans and joint resourcing.

Building Capacity to improve outcomes

1) **Take a holistic view of the equality and human rights landscape.** Immediate progress is being made on the commencement of the 'socio-economic duty' and the gender equality road-map, but a longer-term view would also be beneficial in respect of how these, the new WSEDs, and potential human rights convention incorporation, can be integrated into existing frameworks.

Supporting the vision for gender equality

The Welsh Government's new vision for gender equality, 'an equal sharing of power, influence and resources,' can be supported by our recommendations for legislative alignment and improving outcomes. Beyond legislation, the vision is redistributive, and as such will need to be mainstreamed within fiscal, education, employment, economic and welfare policies. A model for institutionalising the mainstreaming of equality in all major policies and in decision-making, is being tested within another GER work-stream.

Further, the vision is based on working toward more equal outcomes. Use of an 'equity approach' to equality has been mooted as a method to support improved equality outcomes. The equal treatment or equal opportunities approach to equality intends to 'level the playing field', whereas an equity approach understands that inequalities can prevent some from being able to get to the 'playing field' in the first place. Such an approach recognises structural inequalities and intends to ensure that people have what they need in order to participate; to be able to be in the position from which they might compete equally

in an equal opportunities' framework. Gender mainstreaming, intersectional mainstreaming and positive action measures can be used to support an 'equity' approach.

However, much of our existing equality legislation promotes equality on the basis of equality of opportunity, with limited positive action measures and the use of policy to 'advance equality of opportunity' through the Public Sector and Specific Equality Duties.⁴ It falls outside the remit of the WGP to set out in detail how to move to an 'equity approach', and indeed, how this might impact on current Welsh Government policy, and equality plans. Some of this thinking may be already be underway as the 'socio-economic' duty is outcome-focused. Similarly, further legal and academic expertise will be needed to define how an equity approach can be fostered within the current scope of the law.

Once these parameters are agreed, clear guidance will be needed to demonstrate how public bodies can mobilise Positive Action measures to support equality of outcome.

2) **Visioning.** There is both an absence of a vision of what equality should look like once it's achieved in Wales, and a plethora of 'almost visions' across the frameworks. A combined vision for equality, well-being and human rights in Wales could be a driver of change now, and for future generations.

This idea is contested. However, drawing on the vision for 'a more equal Wales' set out in the integrated suite of well-being goals within the *Well-being of Future Generations (Wales) Act 2015*, (WFG), the aims of the *Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015* (VAWDASV) and the *Social Services and Well-being (Wales) Act 2014* (SSWB), the key equality priorities emerging from *Is Wales Fairer?* (EHRC, 2018), and the human rights conventions 'minimum standards', it would be possible to set a clear direction of travel that could encourage public bodies to set ambitious targets to challenge entrenched inequalities and poor well-being.

A clear vision should set out what success looks like - driving ambition for improvement and drawing upon the legislation to support it, rather than rely on process compliance to lead to improved outcomes.

3) **Reflexive Learning.** The WFG, PSED/WSED, VAWDASV and SSWB is responsive legislation, which requires public bodies to respond to the social, participative, cultural and economic goals of the citizenry (Conley, 2016). The kind of systemic change that the legislation intends to catalyse, depends upon institutions being willing to learn and adapt. In short, to move beyond process compliance, to use research and engagement, to think, analyse, 'vision' and act differently. Currently, this reflexive learning element is missing or insufficiently institutionalised.

⁴ These various approaches are summarily explained in the report.

Reflexive learning models involve active, project- based collaborations between policymakers, academics, equality organisations and ‘experts by experience’, in an open, curious and exploratory process (Parken, 2010). They require sufficient capacity and resource to foster movement from monitoring and compliance-focussed behaviours, which are transactional and can hide challenges and realities, towards a learning culture. Such a model can also underpin movement to a ‘contributions’ evaluation model, which could demonstrate how public bodies contribute to national strategic outcomes.

Members of the WGP are investigating potential funding sources that might support reflexive practice and organisational culture change. In addition, a mini-test of a dual-strategy equality mainstreaming model is underway as part of Phase 2 of the GER. This model, if institutionalised, can underpin reflexive practice.⁵

4) Research capacity and evidence provision. Our engagement work demonstrates an appetite for improved access to research to inform decision-making. In particular, policy-makers need support with interpretation of research to understand the drivers of poor well-being, gender-based violence and abuse, inequalities and care support needs. This will enable better identification of priorities to inform action planning.

Recommendations for building capacity for policy-makers to be able to access and interpret research evidence, and for new research to explain the relationships between well-being and equality, include:

- incorporating a programme of qualitative research to complement the quantitative element of the National Survey,
- drawing upon Knowledge and Analytical Services’ (KAS) plans to assist research suppliers to ‘enact the act’(WFG);
- co-production of research guidance with key stakeholders to include integrating equalities data and research evidence;
- new KAS guidance on equality disaggregation of local well-being assessments (see process alignment recommendations);
- a new equalities research forum;
- WG guidance on how public bodies can draw on wider research to understand the drivers of inequalities and poor well-being, for use in policy development and impact assessments (for example, better interpretation and use of the EHRC’s *Is Wales Fairer?* and *Is Britain Fairer?* triennial reviews);
- ‘think pieces’ on the inter-relationship of well-being and equality, providing practical examples of combined solutions;
- assessing research capacity for equality in Wales, which may lead to joint well-being and equality research fund applications, and PhDs.

⁵ Based on models developed in Parken and Rees, 2003, Rees 2005, Parken and Young 2007, Parken, 2010.

These actions, and our further recommendations, can underpin a transition to reflexive learning and evaluation models.

Improving outcomes: The socio-economic duty and Welsh Specific Equality Duties

1) **The ‘socio-economic duty’** is a key mechanism for linking well-being and equalities outcomes conceptually, through objective setting, guidance, and evidence-informed strategic planning. The duty, as set out in s1 of the *Equality Act 2010*, is not restricted to operating on the basis of protected characteristics. It is therefore possible to require public bodies to address social and economic disadvantage more broadly. For example, the Scottish Government has defined the duty as requiring action to ameliorate disadvantage on the basis of communities of place and of interest, and has expressly included carers, and care leavers (Scottish Government, 2017).

It is recommended that:

- the Welsh Ministers’ statutory guidance draws out these wider definitions, sets out a definition of social and economic disadvantage, how it interacts with poor well-being and how people with certain protected characteristics can be more likely to be in low-pay, or find it more difficult to escape poverty.
- Statutory guidance should list the strategic documents to which the duty must be applied. Again, a vision of what the WG hopes to achieve with the ‘socio-economic duty’ is vital.
- the consultation on the ‘socio-economic duty’ includes asking respondents to consider the intersection of low income, inequalities and poor well-being.
- the FGC and EHRC issue joint non-statutory guidance on the practical application of the combined operation of the well-being goals (which includes socio-economic inequality), the Public Sector Equality Duty and the new ‘socio-economic duty’. The guidance should articulate the connections between well-being, low incomes and equality.

2) **New Welsh Specific Equality Duties.** In relation to the PSED, evidence shows that public bodies do not always translate process into setting ambitious objectives or taking action (EHRC, 2019).⁶ For example, data collected to meet the ‘employment monitoring’ and ‘pay differences’ duties, may not prompt analysis or interpretation of the data (Parken and Ashworth, 2018), resulting in lack of action. To improve the effectiveness of the PSED, the new set of WSED duties should be action-orientated and include better monitoring for contributions to improved outcomes:

- a) When setting new equality objectives for 2020, the EHRC will be encouraging public authorities to tackle the most severe inequalities, as highlighted through *Is Wales Fairer?* (2018). A new specific duty could require public bodies to consider

⁶ The full suite of current Welsh Specific Equality Duties is listed at Appendix 4. Review of PSED and briefings EHRC Wales website

these priorities, leading to coherent equality-objective setting across public bodies in Wales;

b) A new WSED should require public bodies to apply the WFG Act 'five ways of working' to the setting of equality objectives, noting that short-term objectives will also be needed;

c) Drawing on learning from Scotland, we recommend a new 'mainstreaming equality duty' which requires public bodies to show how all the equality duties (General and Specific) have been mainstreamed by becoming integral to structures, behaviours and culture. This will assist PBs to demonstrate how they have promoted equality in the carrying out of functions and through key policies (EHRC Scotland, 2016a:9).

d) We recommend a new WSED that strengthens the use of Equality Impact Assessments (EIAs) at the beginning and throughout policy development to challenge supposedly 'gender-neutral' policy making, and to change their use as retrospective checking instruments. New EIA proposals and the equality mainstreaming model test (Phase 2 GER), can help inform how this new duty could be set out.⁷

e) The renewal of WSEDs provides an opportunity to consider how to strengthen the 'due regard' requirements in relation to promoting equality and may also provide transferable lessons for WFG, VAWDASV and SSWB. Responsive law has to be carried through process, with public bodies required to demonstrate that they have complied by giving 'due regard' to equality and well-being in exercising their functions. But process compliance may have become an end in itself. It is possible to comply with current statutory equality obligations without this leading to setting ambitious equality or well-being objectives. New WSEDs offer an opportunity to examine how to improve outcomes.

f) A new WSED that requires public bodies to publish their Well-being Statements or plans strategic equality plans and annual reports on a central searchable website.

Human Rights Conventions

The suggestion that incorporation of the Human Rights Conventions on disability, ethnicity and gender would contribute to visioning (through setting minimum standards), and to increasing the ambition of policy-making goals (Davies, 2019, Hoffman, 2019), should be further considered. As should the suggestion that incorporation could strengthen enforcement of human rights through the Welsh court system.

⁷ The current WG IIA and best practice approaches to EIAs have also been separately reviewed within Phase 2 of the GER - see Chwarae Teg report. Recommendation re promoting equality of outcome through EIAs is dependent on outcome of review recommended under *Improving Outcomes* Recommendation 1.

Introduction

In 2018, the then First Minister commissioned a *Gender Equality Review* (GER) to explore how the Welsh Government could ensure that ambitions for gender equality are put at the heart of decision and policy making, make Wales the safest place for women in Europe, and draw from the principles of feminist government that underpin open government in Canada and Sweden.⁸

Phase 1 of the Welsh Government's *Gender Equality Review* (GER) recognised the intent of much Welsh legislation to promote equality, social justice and well-being, while noting an implementation gap between legislative aims and improvement in outcomes (Chwarae Teg, 2018, Parken, 2018).⁹ The GER recommended that key stakeholders assess how to strengthen integration between the *Well-being of Future Generations Act* (WFG, 2015), the *Equality Act 2010* (Statutory Duties) (Wales) Regulations (WSED, 2011) and the *Violence Against Women, Domestic Abuse and Sexual Violence Act* (VAWDASV, 2015), and review their existing compliance, monitoring and accountability mechanisms, for opportunities to enhance their effectiveness.¹⁰ Subsequently, the *Social Services and Well-being Act* (SSWB, 2014) was added to the scope of enquiry.

These recommendations have been accepted by the Welsh Government, as has the need to set a vision for gender equality in Wales, and that in addition to promoting equality of opportunity, the Welsh Government will work towards equality of outcome. Subsequent discussions have included taking an 'equity approach' to promoting equality outcomes, but this has not yet been formally adopted. These differing approaches are discussed below.

A Working Group (WGP) of key stakeholders was formed to assess opportunities for legislative and process integration. The WGP is comprised of representatives from the Future Generations Commission, the Equality and Human Rights Commission (Wales), and the Welsh Government's Communities Division, VAWDASV, Futures and Integrated Policy Making Division, Legal Services, and Social Services and Well-Being (WG).¹¹

In recognition that the statutory duties underpinning the legislation in scope are distinct, and that the anti-discrimination and Public Sector Equality Duty (PSED) elements of the *Equality Act, 2010*, are not devolved, the WGP has considered *alignment* rather than

⁸ Chwarae Teg Phase 1 Overview: <https://www.cteg.org.uk/wp-content/uploads/2018/07/Rapid-Review-of-Gender-Equality-Phase-One-Summary-Report.pdf>

Parken (WCPP) International best practice review: <https://www.wcpp.org.uk/wp-content/uploads/2018/07/Putting-equality-at-the-heart-of-decisionmaking-corrected-final.pdf>

⁹ Chwarae Teg (2018) *Rapid Review of Gender Equality Phase 1*, and Parken (2018) *Putting equality at the heart of decision-making*.

¹⁰ The relevant GER recommendations are listed at Appendix 1

¹¹ The membership of the group is provided at Appendix 2.

integration. The General Duty (PSED) intends the amelioration of disadvantage experienced by defined protected characteristics across Great Britain on the basis of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Only the setting and operation of the distinct statutory *Welsh Specific Equality Duties*, which are the 'stepping stones' to meeting the PSED, is currently devolved to the Welsh Ministers.

Although the GER recommendations rest upon the Welsh Government, delivery of equality outcomes relies on the work of public bodies (PBs). Therefore, the WGP has also considered how alignment may also streamline objective-setting processes, planning and delivery across the frameworks, so that public bodies might fulfil several statutory duties through coordinated action, answering calls for a 'de-layering' of statutory duties. Strengthening implementation through better alignment involves considering how the aims, objectives, action planning and delivery of each set of requirements can be brought together in practice. Methods to improve equality and/or integrated impact assessments are being assessed as part of a separate GER recommendation.

These are complex themes, dealing with legislation, policy development and implementation across the public sector. In this time and resource limited project, the Working Group has collated the legislative requirements, considered the support that the WG and public bodies will need to improve outcomes, identified and carried out preliminary testing of opportunities for process alignment. However, several of our recommendations will require further analysis and deliberation as they concern the changing environment for equality, well-being and human rights.

Research Aims

- 1) To consider whether and how the aims, objective setting, action planning, outcomes, monitoring, reporting, scrutiny and enforcement mechanisms under the WFG, WSED, VAWDASV and SSWB can be better aligned to improve their effectiveness with regard to promoting equality of outcome.
- 2) To consider whether and how the new vision for gender equality can be implemented through the existing legislation. This will include assessing the strengths and weaknesses of the existing legislation to meet this aim.

Project Design

- 1) Literature review: concepts of wellbeing and equality and how they might inter-relate, legislative requirements and aims.
- 2) Formation of a Working Group (WGP): bringing together expertise from the statutory commissions and Welsh Government on each legislative requirement. The WGP's role is to input specialist knowledge, contribute practical ideas for alignment and to comment on drafts.
- 3) Initial testing of emerging ideas with equality and well-being networks.

The collaborative *Working Group* of key stakeholders has provided invaluable expertise on the legislative frameworks in scope. It was facilitated and supported by Dr Alison Parken, who provided literature reviews and analysis for the group to comment and build upon, drafted reports, and who also tested emerging recommendations with stakeholder groups. This included the EHRC Equality and Human Rights Exchange (EHRE) and Sport Wales which is a member of the National Public Bodies Sharing Group (NBSG). The NBSG, works together to share best practice on promoting well-being, and is increasingly considering how to align well-being and equality.

The current context

The Working Group's main consideration was the potential alignment of existing legislative requirements. However, we were cognisant of dynamic changes for the equality and human rights landscape in Wales under concomitant consideration.

Since the Working Group began deliberations, the Welsh Government has announced that it will commence the 'socio-economic duty'.¹² This is likely to be a key mechanism to increase understanding of the inter-relationship between well-being and equality, and to challenge and reduce 'siloed' thinking. However, since well-being and equality are not always seen as linked, and indeed, sometimes as competing, the introduction of the 'duty' will not be straightforward. It will require learning and collaboration at the heart of a joint endeavour.

There are also calls for the 'delaying' of statutory duties in consideration of the impact of austerity, with better alignment viewed as conducive to improving outcomes. The Welsh Government is being called upon to incorporate human rights conventions for women, ethnic minorities and disabled people into Welsh policy and practice, and has recently adopted a new vision for gender equality, and set out a number of aims to meet the vision as follows:

Vision Statement:

¹² Section 1 of the *Equality Act* 2010 provides:

(1) An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

(2) In deciding how to fulfil a duty to which it is subject under sub-section (1) an authority must take into account any guidance issued [in accordance with sub-section (2A)]

(2A) - The guidance to be taken into account under sub-section (2) is -

(aa) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers.

A gender equal Wales means an equal sharing of power, resources and influence for all women, men and non-binary people. This is a vision where the government aims to create the conditions for equality of outcome for all.

Aims:

We want a Wales where:

- *All women can have economic independence and paid, and unpaid work is valued*
- *Diverse women are fairly represented in positions of influence and empowered to play a meaningful role in society*
- *All women are free from discrimination and free to live their lives as they choose*
- *Violence against women, domestic abuse and sexual violence stops*
- *Existing power structures that disadvantage women are challenged*
- *All women, men and non-binary people enjoy equal rights and protections and equality of outcome (Welsh Government, 2019).*

This vision indicates redistributive intent and realising it will involve mainstreaming equality throughout policy development and programme delivery, as well as adopting specific actions (the dual-strategy approach to mainstreaming equality, Parken 2018). It also requires a shift from equality of opportunity, which is supported by current legislation, to equality of outcome. Therefore, it is challenging to forecast whether current legislation is sufficient to stimulate the wide-ranging policy change that will be required to translate this vision into action.

Lastly, it is now generally accepted that the Public Sector Equality Duty (PSED) has not provided the anticipated advances in equality. And that process-led compliance focused duties have not prompted sufficient subsequent action (Conley, forthcoming, EHRC 2019, Parken 2018). As a consequence, the Welsh Specific Equality Duties are likely to be reviewed and refreshed in the next 12 to 18 months.

There are two further important qualifications to the context for this research. Firstly, unlike WFG and the General and Specific duties of the *Equality Act* (2010), VAWDASV and SSWB are not overarching frameworks designed to influence policy-making at the macro level. While they promote a preventative and early intervention approach, VAWDASV and SSWB, are less discussed in the report than WFG and the EA in relation to definitions, aims, intent and methods for improving well-being and equality outcomes. They are drawn in when alignment opportunities arise.

We must also be aware that alignment of processes may not, of itself, improve implementation. The reflexive learning element of the PSED (applying evidence, testing ideas, reflecting and assessing progress, adapting, learning and so on), has been missing (Parken and Ashworth, 2018, Conley, 2018), and its absence within WFG well-being assessments also noted (Netherwood, et.al, 2017). Improved implementation will require

organisational supports that enable better understanding of the spirit of each piece of legislation, and the provision of practical, evidence-informed, solutions. Investment in reflexive learning opportunities, which bring organisations together to share practical policy and delivery ideas will also be needed to meet the vision for gender equality in Wales.

The WGP's consideration of alignment took place in this shifting landscape. The Group had neither remit nor resource to set out fully how such changes might be implemented. Nevertheless, we have considered how to improve outcomes, enhance process-compliance outcomes through alignment, and how to 'future proof', including suggestions to inform the consultations on introduction of the 'socio-economic duty' and the review of the Welsh Specific Equality Duties (WSED), that might enhance alignment in future.

Defining the concepts in frame

Part of the alignment challenge is that well-being, equality and human rights can be interpreted in different ways. This means that there is little literature on the connections between these concepts and how to take joint or aligned actions (Just Fair, 2018). This section sets out the ideas behind the concepts, and how we might link them, while also retaining their distinctiveness.

Approaches to Equality

Anti-discrimination or 'equal treatment' legislation, intends that everyone is treated fairly, and that formal barriers to access (education, employment, justice) are removed. In practice, this has resulted in treating everyone the same against an, often unacknowledged, andro-centric norm, and has not led to an understanding of how difference affects life chances (Rees, 1998).

The equal treatment or equal opportunities approach to equality intends to 'level the playing field', whereas an equity approach to equality, understands that inequalities can prevent some from being able to get to the 'playing field' in the first place. Such an approach recognises structural inequalities and intends to ensure that people have what they need in order to participate; to be able to be in the position from which they might compete equally in an equal opportunities' framework (Renold *et al.*, 2017). Positive Action measures can be used to support an 'equity' approach. The recent Welsh Government announcement that period products will be made freely available in schools can be described as a 'equity' action, as it recognises that poverty and gender can interact in ways that limit access to opportunity.

Gender Mainstreaming (GM) can support an equity approach to equality by fostering the systemic changes that would remove the need for short-term positive action measures. GM recognises that much policy-making is not gender-neutral but rather emanates from a dominant androcentric perspective (viz the gender division of labour has been historically

underpinned by welfare, tax, childcare and family wage-setting policies). GM was developed to ensure an equalities evidence base informed *all* policy-making (transversal) as opposed to restricting efforts only to equality legislation and plans (vertical), anti-discrimination or short-term project based positive action measures (Rees, 1998, Verloo, 1999). It is argued that by following the principles, processes and tools developed for mainstreaming, supposedly gender-neutral government institutions, and the policy frames that they generate, will be recognised as androcentric, and subsequently transformed (Rees, 1998, 2005, Parken, 2018).¹³

Well-being and Equality

The concept of well-being also has many definitions. It can operate at the individual, relational, community and societal levels. White (2017), who advocates an understanding based on relational well-being, has summarised recent critiques of well-being: a smokescreen for austerity, overly focused on the self, and promoting a behaviour change and self-improvement paradigm that is designed to shift responsibility and delivery of services from the state to the third sector, communities and individuals.

In Wales, the Government of Wales Act 2006 established a power on Welsh Ministers to promote or improve the economic well-being of Wales, the social well-being of Wales, and the environmental well-being of Wales (Section 60 of the GOWA 2006). Economic, social, cultural and environmental well-being is described through a suite of seven interrelated goals, with progress articulated through forty-six national well-being of Wales indicators. Ways of working, to reach these goals, interlink with the setting of well-being objectives, and through action in accordance with the sustainable development principle.

These goals are to be achieved by placing a well-being duty on forty-four public bodies (including Welsh Ministers), who have a duty to carry out sustainable development, and in doing so shape their own priorities in a way that can best contribute to the seven well-being goals (the sustainable development principle). The WFG Act is designed to make sustainable development the central organising principle of public bodies and the Welsh Government.

The well-being goals are closely allied to the challenges raised by Wilkinson and Pickett in *The Spirit Level* (2009). The central theme of Wilkinson and Pickett's research, based within a public health discourse, is that the most unequal societies by income and wealth, such as the UK, are among the unhappiest. Highly unequal societies exhibit the highest levels of mistrust, prejudice, violence and disengagement. Increasing GDP does not increase happiness or distribute income and wealth more evenly. Their most recent report correlates income inequalities to increasing 'status anxiety', which manifests as a tendency to categorise each person encountered, and 'the self', as superior or inferior. This, they say, leads to low or overblown self-esteem, and an increased lack of tolerance of others' views, violence, and ill-health associated with raised stress levels (Wilkinson and Pickett, 2018).

¹³ See Parken 2018 for further information on the principles and tools of gender mainstreaming

There are equality dimensions to this work, although they are not sufficiently drawn out. For example, 'status anxiety', is likely to be more prevalent for people who have been 'othered' within society and the economy by difference from 'norms'. For example, women and non-white populations have been systematically 'othered' within patriarchal and colonial capitalist structures of economic organisation. People on low incomes, who are also subject to discriminatory practices and hate speech, or whose abilities are devalued or disregarded, may feel the negative judgment of others more acutely and find it more difficult to escape from low-pay. Indeed, the superior/inferior binary creates a hierarchy of value based on individual or group belonging.

In contrast, the National Equality Panel research was a purposive examination of economic inequalities by the social divisions of inequality and their intersections (Hills *et.al.*, 2010). On the basis of parental occupation, the research showed that educational attainment could be predicted, and that the rungs of the ladder to social mobility were now set so wide apart, that this was negatively impacting aspiration. The study showed particular material disadvantage for certain minority ethnic groups (and the intersection with ethnicity and Muslim religion), disabled people, women and young people. Young people particularly continue to struggle with social mobility - the current generation, the best educated ever, are less able than previous generations, to attain career and wage growth (Clarke and D'Arcy, 2018). The NEP research underpinned s1 of the EA - the 'socio-economic duty'. But being largely based within an economics paradigm, the report did not expressly address the concept of well-being.

Different academic disciplines tend to direct research away from linking well-being and equality and thus frustrate thinking on ways to link the concepts. However, there is also caution about linkage, and potential conflation through alignment. Emerging alignment ideas were tested with members of the EHRC'S *Equality and Human Rights Exchange* (EHRE), in which some equality advocates and officers expressed concern that alignment could reduce focus on equalities (if it were to be viewed as subsumed within well-being plans). In addition, the WFG was viewed as conceptually focused upon, and primarily concerned with, economic inequality, and some EHRE members argued that a distinct equalities focus must be retained, and indeed strengthened, to tackle other manifestations of inequality such as discrimination, harassment, hate crime, unequal pay and unconscious bias.

However, amongst these concerns there was also enthusiasm for streamlining processes and this was also viewed as a conduit to increasing the 'purchase' of equality within policy and service delivery areas. Indeed, the consultation itself led some equality officers to consider how internal governance structures could foster closer collaboration between staff working on well-being and equalities.

Some of the concerns may reflect frustration that the General and Specific equality duties have not resulted in the anticipated advances in equality, as well as the recent focus public bodies have given to implementing the WFG. The frameworks should be mutually reinforcing but in the context of austerity they may be competing for time and resource.

Current state of well-being and equality alignment

The WFG Act, expressly includes a focus on socio-economic inequality in the goal for a more equal Wales:

A more equal Wales. A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances) (WFG, 2015).

The act recognises a tendency to interpret goals vertically, and expressly calls for each wellbeing goal to intersect and interact, and by applying the 'integration' way of working. For example, 'a more equal Wales' should find expression under 'A more prosperous Wales' through the indicators on education, skills and decent work, which includes permanent employment. Data shows that women, some ethnic minorities and disabled people are most likely to be in precarious work in Wales (Davies and Parken, 2017) and women most likely to be working below their qualification levels (ONS, 2013). According to the FGC's review of the first well-being objectives and plans, integration is in process but not yet sufficiently well-developed:

Overwhelmingly, objectives have a tone of improving the economic and social wellbeing of localities, with little emphasis on the environment or culture - despite the need to demonstrate how well-being objectives contribute to each of the seven goals (FGC, 2018, 17).

A purposive review of equality objectives within well-being plans carried out for this research revealed that eleven PBs intended to address socio-economic inequalities and a few objectives on disability, ethnicity and gender. Anticipating this vertical approach to the goals, the FGC has introduced 'Journey Checker', which sets out simple steps that that authorities can consider across the goals, including integrating equality steps. More 'stretching' steps, designed to encourage public bodies to take transformational actions, will follow.

Well-being and equality are most obviously aligned in relation to socio-economic inequalities, as many of the drivers of poor well-being and inequality interlink. A 'socio-economic duty' that combines with the well-being duty to underpin an equity approach, should effectively bring the legislation into alignment, with mutually reinforcing benefit.

Well-being and equality may be aligned but irreducible to each other. It is entirely possible to preserve distinct concepts and operate them in a mutually supporting ways. The challenge is to resist reductionist or hierarchical approaches. For example, research on integrating equality and human rights in Wales adopted an intersectional mainstreaming

method to bring both concepts ‘alive’ and achieved ‘political intersectionality’ (Parken and Young, 2007, Parken 2010). ‘Political intersectionality’ refers to situations in which evidence of equalities can lead to remedy through human rights obligations or when a policy solution provides benefits for several strands of inequality. Better interpretation of evidence may provide such opportunities for well-being and equality to be mutually reinforcing. Suggestions for increasing research capacity on the connections between inequalities and well-being in health, culture, education, employment, participation and the environment are discussed below.

Well-being and Human Rights

The decision of the UK government not to commence the ‘socio-economic duty’, is cited as being detrimental to efforts to improve equality and to reducing the effectiveness of human rights legislation:

The Committee recommends that the State party bring into force the relevant provisions of the Equality Act that refer to the public authorities’ duty with respect to socioeconomic disadvantage, as well as with respect to the prohibition of intersectional discrimination, in order to enhance and guarantee full and effective protection against discrimination in the enjoyment of economic, social and cultural rights (UN Committee for Economic, Social and Cultural Rights, 2016).

There are clear connections between well-being and human rights, but again these concepts may not, and need not, be reducible to each other. Wales was one of the first countries in the world to legislate for sustainable development defined as social, economic, environmental and cultural wellbeing. The WFG Act’s seven wellbeing goals were developed at the same time as the UN *Sustainable Development Goals* (SDGs) and are designed to be Wales’ contribution to the SDGs, and the *Sustainable Development Agenda 2030*.

The well-being goals were developed with partners as goals for Wales and agreed by the National Assembly for Wales. This is in line with the UN recognition that nations should contextualise the SDGs to reflect their own national circumstances and priorities. More than 90% of SDG targets are embedded in human rights treaties - without embedding human rights in policy-making, the sustainability goals cannot be met (Danish Institute of Human Rights, 2018).¹⁴

However, during deliberations on further incorporating human rights legislation in Wales, in addition to the *United Nations Convention on the Rights of the Child*, human rights scholars and advocates have argued cogently that fulfilling the well-being duties, will not satisfy human rights obligations (Davies, Jones and Hoffman, 2019). Hoffman notes the connection between anti-discrimination legislation and human rights (2019). However, he argues that the sustainable development goals, which include well-being, are distinct from human

¹⁴ <http://sdg.humanrights.dk/> Links SDGs on inequalities to Human Rights Treaties

rights. The former seeks improvements for nations, whereas human rights offer the potential for redress for individuals. Further, that human rights can anchor sustainable development, echoing the view discussed above (DINHR, 2018).

For our purposes, the argument for further incorporation is attractive in so far as the human rights framework set the minimum standards that a 'rights respecting' society should demonstrate, which can operate to set priorities for public policy (Hoffman 2019). For example, with regard to the UN *Convention on the Rights of Disabled People*, minimum standards include a right to adequate housing, healthcare and independent living (Davies, 2019). This may encourage public bodies to set more ambitious targets than they currently do under the PSED (EHRC, 2019), and to integrate these priorities within policy delivery.

It is also an attractive idea in a context in which consistency and collaborative effort is undermined by the practice of public authorities setting individual equality objectives. However, the EHRC is making progress in this regard in relation to the key priorities highlighted by *Is Wales Fairer?*, which do draw together both equality and human rights challenges.

However, we should be cautious about substituting a rights-based approach for the responsive legislation that currently underpins the promotion of well-being and equality in Wales. Both may fall through an implementation gap if they are process-led. Besides connecting concepts and considering alignment of existing legislation, we assess its current effectiveness.

The Effectiveness of Responsive and Reflexive Legislation

The Welsh Government has used responsive legislation to promote equality, well-being, tackle gender-based violence and abuse violence, and create co-produced solutions to social care and independent living. Responsive law can be described as that in which:

'... the emphasis is on making institutions supportive of social goals that are valued by citizens so that injustice is rectified, or better still avoided, before it leads to individual cases' (Conley, 2016).

Responsive law requires public officials to use evidence-informed policy-making, working with the participation of 'experts by experience' and the civil society groups that represent them, to inform legislative design, objective setting and policy solutions. Such law also has a reflexive element (Teubner, 1983), which:

'... does not seek to impose greater regulation, but it seeks to guide institutions, through 'regulated autonomy' to reflect on their practices so they might bring about the redistribution of resources' (Conley, 2016)

This type of legislation arose in recognition of the failure of anti-discrimination legislation (individual, complainant based), to remedy structural social and economic disadvantage (Conley, 2016). The ‘mainstreaming equality’ duty (*Government of Wales Acts 1998, 2006*), is an example of responsive and reflexive legislation. It is unique in requiring the National Assembly for Wales (GoWA, 1998) and latterly the Welsh Ministers (GoWA, 2006), to have due regard to promotion of equality of opportunity for *all* people in the exercise of their functions (through decision and policy-making). This presaged an intersectional approach to integrating the promotion of equality and human rights through policy-making (Parken and Young, 2007, Parken, 2010, Hankvisky, 2013).

The ‘Mainstreaming Duty’, which should require the systematic integration of equality in all systems, policies and processes (Rees, 1998), has since, in practice, been superseded by the *Equality Act, 2010*. The EA encompassed existing anti-discrimination law, replaced existing duties to promote equality (race, gender and disability), and introduced the Public Sector Equality Duty (PSED), which requires public authorities, in exercising functions to have ‘due regard’ to tackling discrimination, advancing equality of opportunity and fostering good relations on the basis of eight protected characteristics.¹⁵ As such, the PSED can be considered to be a weak version of the concept of gender mainstreaming (GM).

The concept of ‘protected characteristics’ (PCs) adopted by the Equalities Review (2007) has also had an individualising effect on the promotion of equality, which mitigates against a focus on examining structural disadvantage by social or economic group. In a context in which identity politics has once again come to prominence, tackling structural social and economic hierarchies, which create ‘otherness’ and perpetuate the transmission of inequalities in each generation, has been relegated. Similarly, Equality Impact Assessments (EIAs), conceived within gender mainstreaming principles and tools as a method of developing new policy ideas to ensure that they promote equality (Rees 1998, Parken and Rees, 2003) have, following the *Race Relations Amendment Act 2000*, been effectively moved to the end of the policy process and reduced to retrospective ‘policy checking’. The new gender equality vision will not be well-served by a reductive interpretation based on comparative ‘disproportionate impact’ between PCs.¹⁶

Similarly, Wales has used responsive legislation to instil sustainable development at the heart of policy-making through the WFG Act. The Act requires the promotion of economic, social, cultural and environmental well-being, now and in the future, and is based upon the principle of meeting the needs of the current generations without compromising the ability

¹⁵ Anti-discrimination legislation and the General Duty cover: gender reassignment, sex, race including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, sexual orientation, religion or belief, including lack of belief (EHRC Wales, 2012). Marriage and Civil Partnership are covered only by anti-discrimination legislation (creating the nine protected characteristics).

¹⁶ Methods for improving EIAs and instituting mainstreaming policy develop models are being considered separately as separate GER recommendations.

of future generations to meet their needs. The WFG Act's seven well-being goals were developed in line with the UN Sustainable Development Goals (SDG), and are designed to be Wales' contribution to the Sustainable Development Agenda 2030.

The *Violence Against Women, Domestic Abuse and Sexual Violence Act 2015* and *Social Services and Well-being Act 2014* are also pieces of responsive legislation requiring local government and health providers to instil a proactive approach to prevention and participation.

It is clear that while responsive legislation prompts public bodies to undertake assessments, this does not always lead to the setting of ambitious equality objectives or plans (EHRC, 2019). Consequently, the PSED has not produced the anticipated improvement in outcomes. Aligning processes within the existing legislation will not necessarily lead to improved well-being and equality, or support the vision for gender equality.

Currently, public bodies can be deemed to have met their well-being and equality duties by demonstrating 'due regard' to process, whether or not inequalities have been reduced or well-being has improved. The review of the Welsh Specific Equality Duties, offers the potential to consider how to strengthen the definition of 'due regard', perhaps through statutory guidance, which might give the courts a 'hook' to question how public bodies have followed due process, but not acted to ameliorate inequalities or ignored the outcome of EIAs that show disproportionate impact. Further consideration should also be given to Hoffman's suggestion (2019) that incorporation of human rights into Welsh law would strengthen individual protections (not offered by responsive legislation) by becoming enforceable through the Welsh court system.

We should also consider ways to bolster the existing PSED by using equality mainstreaming to challenge institutionalised 'ways of seeing and doing' (Rees, 1998), and provide concerted reflexive learning and change action support (Parken and Ashworth, 2018, Netherwood, 2017).

Opportunities for Process Alignment

In this section we set out the Working Group's recommendations for aligning timeframes, joint assessment, engagement, objective-setting, monitoring and scrutiny. The first step to facilitating these recommendations will be coordinating planning and reporting timeframes.

Timeframes

There is variation in the coverage of public bodies subject to each piece of legislation (see Appendix 3 for detail), therefore aligning timeframes will not be relevant to them all. However, some coordination across planning and reporting timescales would facilitate

aligned assessment, engagement and objective setting. Table 1 sets out the current timings for strategic plans across the four frameworks.

Table 1 Strategic Planning Timeframes

Legislation	Public Body	Timespan for Strategic Plan/Well-being Statement
WSED	WG and all public bodies subject to the Welsh Specific Equality Duties (73 bodies)	Current 2016 - 2020 Next 2020 - 2024
VAWDASV	Welsh Government local authorities, Health (LHBs and NHS Trusts, fire and rescue	2017 - 2021 2018 - 2022
SSWB	Local Government and Health (LHBs and NHs Trusts)	2018- 2023
WFG	Welsh Government 43 public bodies	Welsh Gov must publish a Well-being Statement, inc. objectives within 6 months of an election (6 months from May 2021). There is no set timescale for other public bodies to renew their well-being statements and objectives.
	Public Service Boards	Well-being plan within a year of LG elections. Well-being plan to be produced within a year of local government elections

The current set of Strategic Equality Plans (SEP) run from 2016 to 2020. Public authorities are consulting now to inform a new set of equality objectives and a SEP to run from 2020-2024. The Welsh Government’s *National Strategy on Violence Against Women, Domestic Abuse and Sexual Violence* is also renewed every five years, and currently runs until 2021. Public Body’s VAWDASV strategic plans may run until 2022, and their Social Services and Well-being plans run from 2018 to 2023.

The Welsh Government must renew its Well-being Statement and objectives within six months of an Assembly election (due in 2021), although the Ministers have the power to review objectives at any point. The new WG equality objectives, being consulted on now, will be set on the existing suite of Welsh Specific Equality Duties, which will be reviewed within the next 12 to 18 months.

The Well-being Statements and objectives of public bodies can also be reviewed at any time (with changes likely to impact on PSB well-being plans), but a new WB statement is required

within 12 months of local government elections, and according to the sustainability principle, it is likely that public bodies may change their well-being objectives to reflect changed priorities within the Welsh Ministers' well-being Statements.¹⁷

One option for future alignment between well-being and equality is for WG set a short-term SEP for 2020/21, and refresh equality and well-being objectives in 2021 when the new WSED duties are commenced. This would also facilitate alignment with VAWDASV planning timescales, but not with SSWB.

An alternative route to alignment, would be to renew the WG well-being objectives early, when new SEPSs are published in 2020 and/or that they are renewed in 2023, at the same time as a new set of equality objectives are being consulted upon (in line with new equality duties). Either route would better facilitate WG to implement the recommendations for mutually reinforcing assessments, engagement, objective setting, SEPs, joint guidance, joint monitoring and reporting set out below.

PBs can renew their Well-being objectives at any time making it easier to align with the new set of WSED duties (although local government will renew well-being statements following local elections). Public bodies could then be required to provide joint reports on the fulfilment of their well-being, VAWDASV and equality duties. Human Rights reporting could also be included.

Corporate Plan and Joint Reporting

Discussions within the expert Working Group, with equality officers and Sport Wales, from the National Public Bodies Sharing Group (NPBSG), suggest the joint incorporation of strategic plans for VAWDASV, SSWB, and equality within corporate plans (or equivalent guiding document).¹⁸ This echoes the approach taken by the WFG duties, which intend to avoid WB objectives becoming an 'add-on' to existing strategic direction.

Public bodies already have discretion to produce joint annual progress reports.¹⁹ PBs could also be asked to set out how equality contributes to WB, as well as reporting separately on progress against their equality duties.

Sport Wales from the National Bodies Sharing Group (NBSG), a good example of reflexive learning (discussed below), further suggests that WB and equality reporting is also incorporated within annual organisational or performance review reports (although the timeframes do not align). Such a requirement would bring WB and equality within formal internal audit processes.

¹⁷ Public bodies publish a well-being statement and objectives. Public Services Boards publish well-being plans and objectives.

¹⁸ The regulations for SSWB require alignment with corporate plans, incorporation may be too rigid a requirement. Further discussion is required.

¹⁹ Sport Wales and members of the NBSG

Public Bodies and Footprint

WBF works across forty-four individual public bodies and nineteen Public Services Boards (PSBs) based on the local authority footprint. Seventy-three public bodies are subject to the WSED but there are no additional requirements placed upon PSBs or RPBs. The WFG places no requirements on RPBs and regulation on PSBs is light touch (see Appendix 3).

There is also variation on geographical and/or demographic footprint. VAWDA runs on the local health board footprint, which is the same as the Regional Partnership Board (RPB) footprint (with the exception of Bridgend) that SSWB works to (population needs assessments (PNAs) take place on a health board footprint).²⁰ Local authorities are encouraged to coordinate their work under SSWB with that of the relevant Public Services Board(s) (PSB).

We recommend mechanisms are put in place that ensure that Public Services Boards (PSBs), Regional Partnership Boards (RPBs), Regional Learning and Skills Partnerships and 'City Deal' governance structures demonstrate how their work has promoted equality and well-being (even though the latter requires reporting to UK Government).

With a shift towards regional economic development those bodies involved in advising, developing and delivering funds, projects and initiatives, this is particularly important and even more so, should they administer any future Shared Prosperity funds in Wales. If bringing these bodies within scope of the equality duties is problematic since they do not have a 'legal personality', a softer mechanism such as Ministerial Remit Letters or internal audit might be appropriate.

In addition, the FGC and EHRC should issue joint advisory guidance helping PBs to consider the inter-relationships between well-being and equality,

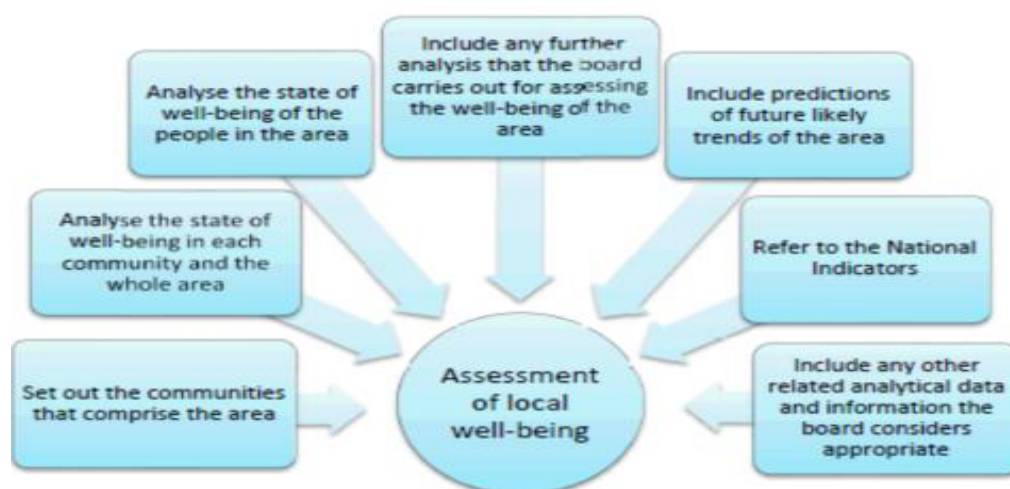
Assessment

Public bodies and Regional Partnership Boards undertake a number of assessments to inform planning. The WFG requires Public Services Boards to carry out an assessment of local well-being and produce a Well-being Plan on the basis of findings.

Although as discussed below in relation to research, not all authorities demonstrate a clear link between assessments and plans. Individual public bodies contribute to the PSB assessment but are not required to undertake an individual assessment by LA area. Chart 2 sets out the required elements of local well-being assessments.

²⁰ RPBs: Cardiff and Vale, Cwm Taf, Gwent, Powys, North Wales, Western Bay, West Wales.

Chart 2: Well-being Assessment requirements



Source: statutory guidance SPSF3 (Welsh Government, 2016 <https://gov.wales/well-being-future-generations-public-services-boards-guidance>).

There are opportunities to increase the use of equality, domestic violence and social care data within each phase of assessment. Under the SSWB, local authorities in partnership with health provider (RPs) must produce a Population Needs Assessment (PNA). PSBs must take into account the PNA, which will identify people who may have care and support needs, and their carer's needs. This information should already be taken into account when PSBs produce local well-being assessments, alongside other evidence of economic, social, environmental and cultural well-being (WG factsheet, no date). Individual PNs can also use this to inform the setting of their well-being objectives and plans.

As part of the process of producing a Strategic Equality Plan, it is expected that public bodies should describe their functions, the area that they serve, and identify key inequalities to inform them. However, this does not always happen in practice.

Interrogating the local well-being assessment by the protected characteristics, would weave equality into well-being plans, enhance the research information used for both well-being and equality plans, and potentially draw out the structural dimensions of inequality for use in both well-being and equality plans in relation to socio-economic policy planning. Data from such assessments could also inform strategic plans for VAWDASV and cross-refer to the SSWB population needs assessment, and vice versa.

Engagement and Involvement

Both WFG and WSED require engagement and/or involvement to inform objective-setting. In addition, the well-being duty requires engagement and involvement that reflects the diversity of the area served by each organisation in the development of well-being objectives and actions. Joint activities across the frameworks may help to demonstrate

areas where the inter-relationships between equality, well-being and VAWDASV reveal common issues and solutions.

The FGC and EHRC should issue guidance on a combined engagement framework using the principles of the WFG Act, and actively foster links between staff responsible for equalities and well-being within public authorities, who may not be in touch. Using the reflexive learning approach (described below), joint seminars on operating the legislation currently and on an intersecting basis, could support better outcomes.

VAWDA, also requires engagement with victims and survivors, but it is not appropriate to suggest this is run jointly with well-being and equality.

Objective-setting

The requirement to set objectives in order to enhance well-being and equality through the delivery of services, varies across the frameworks (see Appendix 3). Public Bodies set well-being objectives to meet the set of integrated national well-being goals. Public bodies set individual equality objectives but EHRC Wales is using the findings from *Is Wales Fairer?* (2018) to encourage public authorities to set a coordinated set of objectives that address the most pressing inequalities across the public sector.

Encouraging public bodies to set mutually reinforcing well-being and equality objectives could promote more efficient and effective implementation. For example, the well-being goal, 'a More Prosperous Wales' defines decent work as the *'Percentage of people in employment, who are on permanent contracts (or on temporary contracts, and not seeking permanent employment) and who earn more than 2/3 of the UK median wage'*. The EHRC wants to see the elimination of employment and pay gaps for the most unequal social groups (IWF, 2018). Drawing on evidence that shows that women, people from specific ethnic minorities, and disabled people are less likely to be in permanent, high quality, full time work (Davies and Parken, 2017, IWF, 2018), brings these two aims together. Mutually reinforcing objectives and better use of equalities data can enhance the targeting of policies and programmes.

Besides coordinating these efforts within public bodies, objective-setting for equality, under the WSED, would benefit from employing the 'five ways of working' to enhance integration and collaboration across policy areas. This could encourage public bodies to set equality objectives that are designed to be preventative, to take the necessary long-term approach to tackling entrenched structural inequalities, as well as setting shorter-term objectives.

There are 'live' consultations on indicators for SSWB and VAWDA and milestones for WFG, which suggest an opportunity for alignment. As there is between the aims of the SSWB and the recent EHRC's legal work to protect and enhance the possibilities for independent living (recent legal cases in relation to welfare reform and adaptations to privately rented

accommodation). Coordinated objective-setting across the public sector could lead to improved outcomes.

Well-being and equality plans

If accepted, the suggestions for co-produced assessments, engagement and objective-setting, should enhance the possibility of creating cross-referral between plans for WFG, VAWDASV and SSWB and WSED. However, differences in respect of aims, coverage and footprint (PBs, PSBs and RPBs) currently preclude the possibility of producing one plan to cover all requirements.

As discussed, integrating these strategic plans within the corporate plan (or equivalent) will be efficient. It may also increase awareness of the connections among staff working in different policy areas. In particular, closer alignment offers the EHRC the opportunity to influence heads of services (equality can sometimes be 'siloed' within Human Resources departments reducing the potential for equality knowledge to influence on policy development).

The National Bodies Sharing Group (NBSG) also recommends that well-being plans are subjected to equalities impact assessment.

Monitoring, evaluation, scrutiny, and reporting: compliance and outcomes

The Future Generations Commissioner is required to monitor individual public bodies to assess whether they are meeting their set objectives and provides advice to PSBs about whether their objectives are contributing to meeting Wales' overall well-being goals. National milestones are currently being consulted upon (assessing the suitability of 12/13 milestones).

The EHRC monitors the compliance of seventy-three public bodies in relation to the PSED and WSEDs and monitors the effectiveness of equalities legislation.

The Welsh Government monitors the effectiveness of VAWDASV and SSWB. The VAWDASV National Advisors monitor the WG's progress in respect of implementation of the Act. The VAWDASV annual report also assesses the production and implementation of local authority and health strategies. The SSWB annual report contains national data on well-being and aggregates information from local authority assessments and plans. The legislation will be subject to an effectiveness review in the next 12 months. Indicators for both VAWDASV and SSWB are currently being consulted upon.

The Welsh Government gathers information from public bodies to monitor progress against the WSEDs and to assess how their activities contribute to the Welsh Government's equality objectives, thus effectively reporting for Wales as a whole. Similarly, the WG's well-being annual report assesses whether the WFG Act is making a difference at an all Wales level. Interestingly, feedback from public bodies suggests that the same WG information gathering

that takes place for equality should be carried out by WG to assess a public body's contribution to the WG's well-being plan.

Each public authority monitors its own compliance across the frameworks. In local government this is the responsibility of scrutiny committees. However, there is no similar mechanism in many other public bodies, including health. To strengthen scrutiny, the NBSG suggests that both equality and well-being compliance should be included in internal audit processes.

The FGC 'lays' the Future Generations Report, a report on Wales' progress as a nation, to the National Assembly one year before an Assembly election. However, the EHRC Wales only sends a copy of its Annual Report, which is laid in the Westminster Parliament, to the NAW. The EHRC Wales presents its annual review to the NAW. This is discussed in plenary and at the relevant Committee. The EHRC lays '*Is Britain Fairer?*', the triennial 'state of the nation' review in the Westminster parliament, but does not lay '*Is Wales Fairer?*' at the National Assembly for Wales. Requiring the EHRC to 'lay' its annual report and '*Is Wales Fairer?*' to the NAW, should be reconsidered.

The Auditor General has specific assessment arrangements under the Well-Being of Future Generations Act:

The Auditor General for Wales may carry out examinations of 44 public bodies for the purposes of assessing the extent to which they have acted in accordance with the sustainable development principle when: a) setting well-being objectives, and b) taking steps to meet those objectives. The Auditor General must examine each public body at least once in a five-year period and must present a report on the examinations to the National Assembly for Wales before each Assembly election. In carrying out an examination, the Auditor General must take account of any advice or assistance given to the public body, or any review of and recommendations made to the body, by the Future Generations Commissioner for Wales. He must also consult the Commissioner. (Source: Section 15 of the Well-being of Future Generations (Wales) Act 2015).

In addition, the Auditor General and the Future Generations Commissioner have agreed a Memorandum of Understanding (MOU) that sets out how they will work together to define good practice for public bodies, coordinate and provide consistent messages regarding interpretation of the Act and the carrying out of sustainable development, and build a reflexive culture as part of review etc.²¹

²¹ For full MOU, see:

http://www.audit.wales/sites/default/files/download_documents/Memorandum-of-Understanding-eng.pdf

In relation to equality, the WAO carried out service user perspective reviews (2018-19) and governance of service change reviews (2017-18) in the 22 local authorities, which considered aspects of how the PSED was being applied. Other Local Government studies have included equality considerations. For example, the Housing Adaptations Study (report published Feb 2018) found that, among other findings on inequities related to complicated funding arrangements, that *'user satisfaction with housing adaptations masks a hugely complicated, reactive and inequitable system that is not delivering for all those who may need it, and public bodies are not taking opportunities to improve value for money'* (p8). ”

The Wales Audit Office's *Value for Money Studies* contribute to monitoring both compliance and outcomes. In addition, the Auditor General produces ad hoc reports that examine progress on the implementation of legislation. There may also be potential for the WAO to consider how the PSED/ WSED is being applied within the local performance audit work that it undertakes with health and local government.

National Assembly Committees undertake enquires and can make recommendations to the Welsh Government. Although the NAW has not yet scrutinised the WG on the implementation of the WFG Act. To fully integrate well-being and equality into policy-making and service delivery, all NAW Committees should be undertaking enquires in these areas. In particular, the Public Accounts Committee could monitor how effectively the investment of resource and staff capacity translates to improved outcomes in well-being or reductions in inequalities.

The legislation in scope measures compliance with process rather than outcomes. In the absence of legislative change, using reflexive evaluative methods (described below), could encourage organizations to be curious, rather than risk adverse, to test ideas and welcome learning about how their efforts contribute to promoting well-being and equality. This is the spirit of the MOU between the AGW and FGC, and it is worth considering how this approach might be transferable.

The suggested improvements in assessments, data and the setting of objectives (outlined above) will benefit outcomes monitoring criteria. Longer term, integrated well-being and equality outcome measures and robust forms of assessment may be needed (see above - data parameters).

Joint reporting on the fulfilment of their well-being and equality duties may also address 'siloes' thinking about well-being and equality. Human Rights reporting could also be included. The new set of WSED duties could require that annual reports and action plans are published on a central, searchable website.

The Working Group considers that regulators and inspectorates must have a more prominent role in assessing how equality and well-being is being promoted through policy delivery. This may require new regulations. The view is that if equality and well-being are

assessed as being central to the core business of public bodies, responsive and reflexive well-being and equality law would be normalised within policy development, service design and delivery. Currently, they can be considered as an 'add-on' to 'business as usual'. These frameworks should be causing public bodies to question how 'the usual', creates poor well-being or inequality.

Clearly, there is scope to simplify monitoring and scrutiny requirements at the same time as aligning assessment, engagement and reporting requirements, and consider how such mechanisms can improve outcomes.

Enforcement

Accountability and enforcement powers vary across the frameworks (See Appendix 3). The EHRC has powers under the *Equality Act, 2010* to carry out assessment and issue compliance notices in relation to the operation of the PSED. These powers, or the threat of them, are considered to have been effective in encouraging 100% compliance in the first year of new GB-wide gender pay gap reporting requirements.²²

The FGC has reviewing powers in relation to how well public bodies undertake assessments, take steps to meet their objectives, and create objectives that will contribute to Wales meeting its well-being goals. The FGC can make recommendations for redress, which public bodies have a duty to follow, unless they set out a 'good reason' for not so doing. The FGC and EHRC have previously considered their separate review and enforcement powers and whether they may act in concert. The FGC and EHRC have previously considered their separate review and enforcement powers and whether they may act in concert. Enhanced information sharing between the Commissions and regulators and inspectorates, may identify bodies that need further encouragement to fulfil their well-being and equality duties in a meaningful way.

The Welsh Ministers have powers of direction in relation to VAWDASV and SSWB. If public authorities do not follow strategy guidance on VAWDA, Ministers can make enquires as to why not, and can issue mandatory orders (s19, VAWDASV), but there is no sanction on public bodies if they do not comply.

Responsive law does not convey additional individual rights. Organisations, by showing that they have given 'due regard' to equality within economic, social, cultural and environmental policymaking, can demonstrate compliance. They do not need to demonstrate that they have achieved a positive change. Recent Judicial Review judgements, on cases tested against the General Equality Duty, suggest the need to strengthen 'due regard':

²² The *Equality Act 2010* (Gender Pay Gap Information) Regulations 2017

As Dyson LJ emphasised, the equality duty is “not a duty to achieve a result”, but a duty “to have due regard to the need” to achieve the goals identified in paras (a) to (c) of section 149(1) of the 2010 Act.

And, as Elias LJ said, at paras 77-78, in the Hurley case [2012] HRLR 374, it is for the decision-maker to determine how much weight to give to the duty: the court simply has to be satisfied that “there has been a rigorous consideration of the duty”. (Claire Darwin, Matrix, Talk to GLD, 29 January 2016).

The intent of responsive law has to be transposed through process compliance, but this should not become the end in itself. As discussed, aligning processes can streamline and should lead to mutually reinforcing actions, but organisations also need support to set ambitious objectives and plans to improve outcomes for equality and well-being.

This can be achieved by institutionalising equality mainstreaming methods and reflexive, enabling learning and evaluation practices. Strengthening the ‘due regard’ mechanism in relation to outcomes could also support the promotion of equality and well-being through policy and decision-making.

Building capacity to improve outcomes

Our analysis of existing legislation showed that aligning processes will not necessarily meet the overall aim, which is to improve outcomes from the existing legislation. Taking this into account, the working group has set out opportunities for greater alignment on the basis of the existing legislation but has also focused on how to improve outcomes and ‘future proof’ legislation to improve alignment and outcomes.

Firstly, we set out ways in which the Welsh Government and public bodies might be supported to set challenging objectives and focus on equality of outcome. Then, we examine existing processes across the legislative frameworks for alignment opportunities that might streamline processes, and possibly improve outcomes.

Holistic review of equality and human rights landscape and vision

Concurrent considerations for improving equality and human rights in Wales encompass whether to incorporate the human rights conventions in Welsh policy and law, the introduction of the ‘socio-economic duty’, the implementation of a road-map for gender equality and a review of the Welsh Specific Equality Duties. The potential impacts of different types of EU withdrawal on the equality and human rights framework must also be accounted for in this shifting landscape. It will be important to seek to understand and work with the complexity of this set of reviews, drawing upon a shared motivation to improve outcomes.

As discussed, the equity approach will, if adopted, need to be clearly defined to support new vision for gender equality in Wales. This can be reinforced by ensuring that the regulations for the 'socio-economic duty' mirror this step-change in policy-making for equality. New guidance will be needed to set out how an equity model can be connected to current legislation for equality of opportunity, and in particular how to make better use of the Positive Action (PA) measures in the *Equality Act*. Engagement with public service providers and employers regarding the use of PA to support the vision/goals for gender equality, would be timely.

The future direction of equality and human rights, legislation and policy-making and its alignment with well-being and other related legislation and strategies, should be considered in a holistic and sequenced way.

Visioning

'Visioning' - is a key gender mainstreaming 'tool', which, based upon evidence of inequalities in a policy-field or frame, applies a gender perspective to reimagining the ways things could be, and formulates new policy accordingly (Parken and Rees, 2003, Rees, 2005, Parken, 2018). The importance of setting a clear vision of what things will look like once changes have been made, has recently been restated through the GER and agreed by the Welsh Government (WG, 2019).

But, what does a more equal, rights respecting Wales look like? Building upon the integrated well-being goals, there is a need for a cohesive vision for well-being, equality and human rights in Wales developed through collaboration. And to stretch the concept of the 'five ways of working' further, the vision could strengthen existing equality legislation by instilling a preventative approach.

Creating a vision of a Fairer Wales has been suggested, setting out, as the Scottish Government has, the necessities for equality and social justice. However, Scotland does not have an equivalent to the WFG Act, and so, there is also resistance to the idea of setting another vision in Wales. The suite of WFG goals and indicators already describe a future state of well-being which may also be counted as fair and just, and action on the goals should be integrated. There is also a view that setting an equality vision for Wales, will elevate 'A More Equal Wales' above other goals.

However, the GER has taken an intersectional approach and set out a clear and ambitious vision for gender equality that actions in the gender equality road-map will support. 'A More Equal Wales' sets out a broad view of equality as ensuring that individual potential is not diminished. This is not the same as public bodies being aware of what the WG considers equality to be, for say, people from ethnic minorities and disabled people in Wales.

The human rights conventions offer a starting point for visioning by setting out minimum standards in education, health, employment, privacy etc. It could be argued that in a less

explicit way anti-discrimination legislation also sets minimum standards, but perhaps a stronger vision is intended in the requirement under the Equality Act, for public bodies to set objectives for 'advancing equality of opportunity' arising from national or local priorities. The EHRC Wales is making progress in this regard by encouraging all public bodies in Wales to work towards the *Is Wales Fairer* priorities. If they are successful in this, a 'vision' is approximated, and could be further articulated.

However, if the Welsh Government were to set a clear vision of integrated aims, this would simplify this confusing picture. It would help to answer calls for 'delaying' and assist public bodies to contribute to overall WG aims.

In summary, a combined vision for equality, well-being and human rights in Wales, supported by an equity approach with a focus on equality of outcome, could be a driver of sustainable change. Adopting a holistic approach to reviewing the suite of changes currently being considered, and wider consultation on a combined vision, is indicated. New legislation may be needed to sustain a combined equity approach.

Reflexive Learning

The responsive legislation in scope requires public bodies to respond to the social, participative, cultural and economic goals of the citizenry. This is a move from authoritative law-making (the 'stick') to inclusive effective policy-making and service delivery (the 'carrot'). For success, it depends upon institutions being willing to learn, and having the capacity to support learning, adaptation and making cultural and institutional change. In short, to move beyond process compliance, to use research and engagement, to think, analyse, 'vision' and act.

Reflexive learning is currently missing from the operation of the Public Sector Equality Duty (PSED). Conley (forthcoming) has studied the operation of s75 in Northern Ireland, which has the same intent as the 'advancing equality of opportunity' element of the PSED. She finds that reflexive learning opportunities are diminished when equality is situated as a function of Human Resources, and that it is viewed by non-specialist equality HR professionals as a risk to be managed through the compliance process. Not only does equality not sit within the policy-making or service delivery areas, there is no reflection or institutional learning to support promoting equality through policy and service delivery. Conley, attributes this in part to austerity and public sector restructuring, which has seen the downgrading or loss of equalities expertise, but also to equality remaining an 'add-on' (forthcoming). The PSED has not succeeded in becoming part of how government does its core business.

We cannot know if these findings are replicated in Wales, but brief consultations with equality practitioners within Wales' public bodies revealed that well-being and equality being are more likely to be considered together, and in relation policy development, when they are both situated within Policy and Partnerships functions. However, these

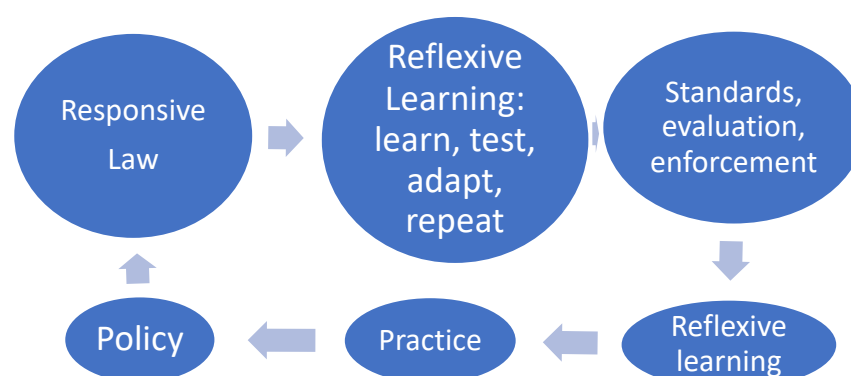
arrangements are the exception to more usual 'siloed' working. A forthcoming review of the operation of the PSED may illuminate these considerations further (EHRC Wales, 2019).

Netherwood (*et.al*, 2017) also noted the need to embed reflexive learning in governance structures in their review of PSB well-being assessments, leading them to ask:

How do we help PSBs to think more broadly about long-term well-being from multiple perspectives and feel comfortable about challenging existing perspectives and approaches (p.5).

Their analysis of assessments, and the FGC's subsequent review of plans (2018), critiqued a lack of connection between well-being assessments and well-being plans. Chart 1, below, sets out how institutional reflexive learning should support responsive law so that it meets legislative policy intent.

Chart 1 Reflexive Learning in policy and practice



In the course of our deliberations, the working group has learned that the Wales Audit Office has developed an approach to the Auditor General's examinations on WFG that aims to promote learning and self-reflection. This is manifest in the principles that guide the approach, which emphasise the need to focus on behaviours and mindsets, welcome honesty, and commit to avoid penalising bodies for taking well-managed risks where they have learned from their mistakes. The methodology itself promotes self-reflection in two main ways:

- Fieldwork scoping workshop – this is a facilitated session, undertaken at the beginning of the fieldwork. It is used to explore why key people involved in designing and delivering a step/activity did it in the way they did, what they felt they had achieved, and what they had learned. There is a specific focus on how they applied the five ways of working. It aims to enable key people to tell their story, whilst also creating the space for them to reflect on how they had applied the five ways of working and what they might have done differently

- Feedback and response workshop – this is a facilitated session, undertaken after fieldwork has been completed and conclusions have been drawn. WAO share their findings in order to promote discussion and encourage bodies to reflect and develop their own improvement actions in response.

Further understanding of these developments should be applied to an examination of a number of reflexive learning practice models set out within the gender mainstreaming literature (see Parken, 2018 for an overview). These involve active, project-based collaborations between policymakers, academics, equality organisations and ‘experts by experience’, in an open, curious and exploratory process that allows questioning of the way social and economic problems are framed (Eveline and Baachi, 2005). The models should establish the inequalities within each policy field, and lead to cross-cutting evidence-informed policy solutions. These are institutional learning programmes, using a mixture of informal reflections and team reflexive practice models.

In Wales, we have also a reflexive equalities model for policy development and implementation on which to build (Parken and Rees, 2003, Parken and Young 2007, Parken 2010), one which is being further tested as part of the GER. It might be further enhanced by applying new engagement and co-production methods developed with the *Social Services and Well-being Act (2014)* and by the Office of the Future Generations Commissioner.

Instituting a reflexive mainstreaming equality model will require significant capacity and resource to foster movement from monitoring and compliance-focussed behaviours, which are transactional and can hide challenges and realities, towards a learning culture. Sufficient resourcing is required not least so that third sector organisations and citizens can properly engage.

There are precedents for funding this type of learning approach to support the implementation of legislation in Wales, for example the Care Council’s national learning and development strategy received £1m from Welsh Government. Working Group members have begun exploring whether the ESF 5 Priority ‘Public Service Reform and Regional Working’ could support the development and testing of an outcomes focused, reflexive institutional learning model for Wales to support the better implementation of well-being and equalities frameworks.

New evaluative measures will also be needed, including setting out a framework that public bodies can use to assess their contributions to overall goals. The cultural and institutional change required is complex, part of an economic and social system with myriad policy frames, and cannot be achieved by any one organisation. Public bodies will need to work together and be able to evaluate how, together, they are achieving change, taking a systemic approach.

Establishing causality is also often unattainable, and risks reinforcing a siloed or competing view of policy interventions. Emergent approaches to change include developing a contribution framework, which doesn't rely solely on metrics, and in which:

The approach taken is therefore to seek contribution analysis, which provides 'not definitive proof, but rather provides evidence and a line of reasoning from which we can draw a plausible conclusion that, within some level of confidence, the program has made an important contribution to the documented result' (Better Evaluation, online). The Scottish Government explicitly uses contribution analysis to understand the impact of the National Performance Framework (Scottish Government 2011) (in Wallace, 2018, p5)²³

Discussions with staff in Knowledge Analytical Services (KAS), Welsh Government, revealed that exploration of such evaluative approaches is being considered. This provides an opportunity for testing within the well-being and equalities legislative frameworks (see Research recommendations below).

Building Research Capacity

Conversations within the Working Group, with statisticians and social researchers within Knowledge and Analytical Services (KAS), and contributions from the GER Advisory Group, demonstrate an appetite for improved access to research to inform decision-making. In particular, policy-makers need support with interpretation of research to understand the drivers of poor well-being, gender-based violence and abuse, inequalities and care support needs. This will enable better identification of priorities to inform action planning.

The following suggestions to bolster research capacity and increase the evidence base for aligning legislation and policy, arose from our discussions:

- a) KAS has a role to coordinate research, develop capacity for equalities research, develop new enquiry that supports policy, ensure research enquiry is linked to professional practice, and that research is applied. KAS is actively considering how to assist research suppliers to 'enact the act' (WFG). Options for producing research guidance collaboratively with key stakeholders are being reviewed, and this can include integrating equalities data and research evidence;
- b) KAS has also engaged with the GER Advisory Group in relation to better data availability and use. As a result, the 46 well-being indicators will be examined to assess whether they can be gender-disaggregated;
- c) These discussions also considered establishing an equalities research forum to coordinate and champion equalities research in Wales. Outline thinking on membership includes universities, research councils (HEFCW, ESRC, AHRC), public

²³ https://betterevaluation.org/en/resources/guides/contribution_analysis/ilac_brief
(Accessed April 2019)

sector and third sector bodies (EHRC, Chwarae Teg, Futures etc.) but especially those who fund equalities research and analysis (JRF, etc). Activities stemming from these initiatives could include joint research projects, funding applications, a research conference, and excellence awards; all of which might build capacity and actively support research that considers aspects of well-being, violence and participation;

d) Following the example set for education, which resulted in 12 jointly funded PhDs, KAS proposes assessing the number and quality of research papers on equality emanating from Welsh universities. This examination of current capacity for equalities research in Wales could lead to joint Welsh Government/universities projects/PhDs (including on better articulating well-being and equalities connections);

e) Data on inequalities should be integrated within the local area well-being assessment (WFG), and to a limited extent, the Population Needs Assessments (PNA) under the SSWB. Well-being assessments should be the starting point for setting well-being objectives (and informing equality-objective setting) but not all public bodies use their data to set objectives (FGC, 2018). This may demonstrate a lack of analysis capacity within public bodies. KAS, and Data Cymru, could provide public bodies with guidance and support on interpreting data and using 'theories of change' methodologies, to enable to better use of data to identify areas for action.

f) Integrated well-being and equality assessments may assist authorities with thinking about inequalities in a place (overcoming the tendency to individualise on the basis of protected characteristics).²⁴ WG guidance can assist bodies to draw on wider research to understand the drivers of inequalities and poor well-being.

There is also a need to revalue qualitative research, address the perception that it is less robust than quantitative research, and promote greater use of mixed research methods. A new programme of qualitative research, aligned to the National Survey for Wales, would capture the 'why' and 'how' information, which is needed to understand and interpret the 'what' data generated through the quantitative part of the survey. Both are essential for planning ambitious change actions.

[Increasing the evidence base](#)

The ideas discussed above in relation to building research capacity will contribute the evidence base in the longer term. However, there is currently little research that draws out connections between economic, social, cultural and environmental well-being for protected equality groups. The Working Group has also generated some shorter-term, less costly interim research projects, to increase the evidence base:

a) A series of ‘think pieces’ that bring an equalities ‘lens’ to community cohesion, individual resilience, how equality and well-being could be promoted through inclusive and low-carbon economies, access to green spaces, sports and community activities etc.

b) A worked case study with Local Authority and/or national body to provide practical insights into aligning well-being, equality, VAWDASV and SSWB. Work on aligning well-being and equality is already taking place within the National Public Bodies Network and the North Wales Public Sector Equality Network, suggesting they would be good candidates for a case study. Depending on timing, the research remit could include assessing how ‘the socio-economic duty’ and well-being duty can work in concert.

c) The FGC’s ‘live labs’ are also a potential resource for worked examples. The FGC uses these to examine practical steps to meet well-being objectives through integrated action across all of the well-being goals. We suggest testing this approach through a topic such as tackling hate crime. Three quarters of reported hate crime in Wales is based upon racial hatred (EHRC, 2108), and looking at this through a well-being lens could suggest new and innovation solutions.

d) WG is currently consulting on the national milestones under WBF - equality can be included in these and there is also some read across to the SSWB framework.

e) Attempts to analyse the deleterious impact of welfare reform on people on low incomes, and how this intersects with equality groups, have been made through cumulative impact assessments (Bristol, Oldham, EHRC). Consideration could be given to including well-being dimensions in these.

Research to support reflexive learning

As discussed, KAS is interested in supporting a reflexive institutional learning and evaluative practice approach by creating guidance on research to support the well-being and equality acts. KAS can create a set of questions or expectations that Ministers, public authority scrutiny mechanisms, and regulators can use as questions to integrate what is working/ what thinking there is about testing, reflection and change. Legislative change may be needed to strengthen evaluative practice as part of monitoring, based on the contribution to outcomes concepts described above.

The guidance can set out the expectations of change within the legislation in an accessible manner, with examples of what constitutes good evidence to promote scrutiny, compliance, innovation and learning. The guidance will enable scrutineers to ask: ‘What evidence have you used and how has it been applied?’ ‘What creates this inequality/poor well-being/behaviour/ lack of participation?’ ‘How far has this issue changed?’ ‘What have you learned, and how would you do it differently?’ (see also monitoring below).

Alignment of data parameters

There are various definitions and measurements of well-being in use. The Office for National Statistics (ONS) uses a definition of personal well-being based on subjective assessment of:

Overall, how satisfied are you with your life nowadays?

Overall, to what extent do you feel the things you do in your life are worthwhile?

Overall, how happy did you feel yesterday?

Overall, how anxious did you feel yesterday?

From this data the ONS produces a measure of average well-being for local authority areas, which can be ranked. Whereas, the *What Works Well-being* Centre applies a standard deviation across the four measures to demonstrate that well-being inequalities can vary widely within a local authority area, and also produces a ranking of the lowest and highest well-being inequalities within and between areas. The Welsh Government uses the National Survey to assess well-being in Wales against the seven well-being goals and forty-six national indicators.

None of these sources routinely disaggregates well-being data by the protected characteristics under the *Equality Act, 2010*. Although two ONS reports (2013, 2018), do draw a connection between poor health and disability as a signifier of the poorest well-being, and show that people from some ethnic minority groups have a statistically significantly greater likelihood of poorer well-being when compared to the general population.

KAS produces the Welsh Government's well-being Monitoring report, which contains data on socio-economic well-being, and data on age, gender, disability, ethnicity and where available, religion and LGBT data for education, employment, pay and political representation but this data is mainly presented within the 'More equal Wales' chapter. There are similarities between this and the way in which the EHRC measures progress towards greater equality and the well-being goals:

- education
- work
- living standards
- health
- justice and personal security
- participation

KAS and Data Cymru could be tasked with analyzing whether it is possible or desirable to create data 'read-across' from various indicator sets including the EHRC's Measurement Framework and National Well-being Indicators.

As discussed, much of the data used for objective-setting for well-being and equality, is quantitative. While this might set the direction for action, qualitative data is needed to

understand why there are poor outcomes, and how factors interact. Qualitative inquiry can assist with identifying policy and programme solutions.

Future Trends Report

The WFG requires the WG to produce a Future Trends Report to help decision makers to better understand the economic, social, environmental and cultural trends that are likely to affect Wales now and into the future. It would be helpful if the next statutory Future Trends Report in 2020/21 included further information on how inequalities might be diminished or widened by changes in the economy, employment, public service provision, technology, climate and societal change, and how current inequalities may impact on Wales' ability to take advantage of opportunities in these areas.

Improving outcomes: The socio-economic duty and Welsh Specific Equality Duties

The 'Socio-economic duty'

Since the Working Group began deliberations, the Welsh Government has announced that it will commence the operation of the 'socio-economic duty'.²⁵ This is a key mechanism for linking well-being and equalities outcomes conceptually, and through objective-setting, guidance, and evidence-informed planning.

The Scottish Government has introduced the 'socio-economic' duty as the *Fairer Scotland Duty* (2017). The 'duty' should address social and economic disadvantage (not restricted to 'disproportionate impact' based on PCs) and will operate in concert with anti-poverty and equality strategies. The *Fairer Scotland* definition of disadvantage expressly includes people on low incomes within communities of place or of interest (the link to equality groupings). The 'socio-economic' duty also provides an opportunity to act to ameliorate entrenched inequalities for groups such as unpaid carers and young people leaving care. This should be achieved in concert with the SSWB.

²⁵ Section 1 of the *Equality Act 2010* provides:

(1) An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

(2) In deciding how to fulfil a duty to which it is subject under sub-section (1) an authority must take into account any guidance issued [in accordance with sub-section (2A)]

(2A) - The guidance to be taken into account under sub-section (2) is -

(aa) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers.

The Welsh Government is already drawing on the learning from Scotland, and the Working Group also suggests that:

- the Welsh Ministers' statutory guidance draws upon the wider definitions outlined in Scotland, sets out a definition of social and economic disadvantage, how it interacts with poor well-being, and how people with certain protected characteristics can be more likely to be in low-pay, or find it more difficult to escape poverty.
- Statutory guidance should list the strategic documents to which the duty must be applied. Again, a vision of what the WG hopes to achieve with the 'socio-economic duty' is vital.
- the consultation on the 'socio-economic duty' includes asking respondents to consider the intersection of low income, inequalities and poor well-being.
- the FGC and EHRC issue joint non-statutory guidance on the practical application of the combined operation of the well-being goals, (which includes socio-economic inequality), the Public Sector Equality Duty and the new 'socio-economic duty'. The guidance should articulate the connections between well-being, low incomes and equality.

New Welsh Specific Equality Duties

The current suite of Welsh Specific Equality Duties (WSEDs) will be reviewed in the next 12 to 18 months. Evidence shows that public bodies do not always translate process into setting ambitious objectives or taking action (EHRC, 2019).²⁶ For example, data collected to meet the 'employment monitoring' and 'pay differences' duties, may not prompt analysis or interpretation of the data (Parken and Ashworth, 2018), resulting in lack of action. This is especially disappointing since the 'pay differences' duty is the only WSED to require a published action plan.

The new set of WSED duties should be action-orientated and include better monitoring for contributions to improved outcomes:

- a) When setting new equality objectives for 2020, the EHRC will be encouraging public authorities to tackle the most severe inequalities, as highlighted through *Is Wales Fairer?* (2018). A new specific duty could require public bodies to consider these priorities, leading to coherent equality objective-setting across public bodies in Wales;
- b) A new WSED should require public bodies to apply the WFG Act 'five ways of working' to the setting of equality objectives, noting that short-term objectives will also be needed;
- c) Drawing on learning from Scotland, we recommend a new 'mainstreaming equality duty' which requires public bodies to show how all the equality duties (General and Specific) have been mainstreamed by becoming integral to structures,

²⁶ The full suite of current Welsh Specific Equality Duties is listed at Appendix 4.

behaviours and culture. This will assist PBs to demonstrate how they have promoted equality in the carrying out of functions and through key policies (EHRC Scotland, 2016a:9).

d) We recommend a new WSED that strengthens the use of Equality Impact Assessments (EIAs) at the beginning and throughout policy development to challenge supposedly 'gender-neutral' policy making, and to change their use as retrospective checking instruments. New EIA proposals and the equality mainstreaming model test (Phase 2 GER), can help inform how this new duty could be set out.²⁷

e) The renewal of WSEDs provides an opportunity to consider how to strengthen the 'due regard' requirements in relation to promoting equality and may also provide transferable lessons for WFG, VAWDASV and SSWB. Responsive law has to be carried through process, with public bodies required to demonstrate that they have complied by giving 'due regard' to equality and well-being in exercising their functions. But process compliance may have become an end in itself. It is possible to comply with current statutory equality obligations without this leading to setting ambitious equality or well-being objectives. New WSEDs offer an opportunity to examine how to improve outcomes.

f) A new WSED that requires public bodies to publish their Well-being Statements or plans, strategic equality plans and annual reports, on a central searchable website.

Human Rights Conventions

The suggestion that incorporation of the Human Rights Conventions on disability, ethnicity and gender would contribute to visioning (through setting minimum standards), and to increasing the ambition of policy-making goals (Davies, 2019, Hoffman, 2019), should be further considered. As should, the suggestion that incorporation could strengthen enforcement of human rights through the Welsh court system.

Supporting the new vision for Gender Equality.

The new vision for gender equality - 'an equal share of power, influence and resources' - is an equal outcome measure. The assessment of how the current legislation can effectively support the new vision for gender equality, also relates to the overall aim of recommendations 12 and 18, which is to improve implementation. In this regard the recommendations for improving outcomes outlined here can also support realisation of the vision.

²⁷ The current WG IIA and best practice approaches to EIAs have also been separately reviewed within Phase 2 of the GER - see Chwarae Teg report. Recommendation re promoting equality of outcome through EIAs is dependent on outcome of review recommended under *Improving Outcomes* Recommendation 1.

However, although the aims should be transposed within equality and well-being objectives, the vision is redistributive, and as such must be supported by fiscal, economic, education and welfare policies. The aims will need to be mainstreamed in macro policy objectives.

Further, while the PSED and Positive Action measures in the Equality Act intend to foster action to improve equality outcomes, the legislation, apart from the 'socio-economic duty', intends to promote equality of opportunity. Therefore, clear guidance and resource will be needed to promote the new vision for gender equality, and support provided for organisations to introduce measures that can contribute to equality of outcome within the limits of the anti-discrimination legislation and the PSED and WSEDs.

Summary

The Working Group has noted the limitations of the law and recognises that these ground-breaking pieces of legislation need to be institutionalised in ways that transform the institutions themselves. Making the most of responsive and reflexive law involves organisational and culture change, available resources and capacity to influence, inform and inspire innovative thinking. As it is time and resource intensive, it is vulnerable to becoming reductively process-led, rather than outcome orientated.

Accordingly, in addition to recommendations for better alignment to foster joint assessments, setting of objectives and evaluative practice across the frameworks, the WGP has set out methods for further embedding equality and well-being in the normal business of organisations, for better information to bolster evidence-informed decision-making, and for reconsidering the ways in which we think about protected characteristics in relation to equality. Further thinking is now needed to understand how to integrate well-being, equality and human rights through open, exploratory, reflexive institutional learning and how this can be resourced to underpin aligned processes. This is vital for implementation, as we simultaneously seek to safeguard existing legislation and strengthen legislative provisions.

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Appendix 1: GER Recommendations

Recommendation 12. *Phase Two should work with key stakeholders to identify the most effective way to strengthen the integration between the Well-being of Future Generations, the Welsh Specific Equality duties (WSED) and the Violence Against Women, Domestic Abuse and Sexual Violence Act. Owner: VAWDASV/Equality and Prosperity/WFG Unit*

Recommendation 18. *Phase Two should review existing compliance, monitoring and accountability mechanisms across the framework considering effectiveness and opportunities to better integrate Owner: TBC²⁸*

Appendix 2. Working Group Membership

Neil Buffin, Legal Services, Welsh Government

Andrew Charles, Futures and Integrated Policy Making, Welsh Government

Ruth Coombes, Equality and Human Rights Commission (Wales)

Rae Cornish, Communities Division, Welsh Government

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Alison Parken, Convenor

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Independent Observer

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Appendix 3. Legislative Requirements

Well-being and Equalities Alignment: Legislative Aims and Requirements

The tables below identify the aspects of the four Acts considered within the scope of this work. The tables are intended to be a statement of the current picture, but do not identify where there is potential for alignment in the legislation (either in law, or in practice).

Table 1 – Stated AIMS on the face of the legislation

Well-being of Future Generations Act	Equality Act 2010	Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011	Violence Against Women, Domestic Abuse and Sexual Violence Act	Social Services & Well-being Act
‘An Act of the National Assembly for Wales to make provision requiring public bodies to do things in pursuit of the economic, social, environmental and cultural well-being of Wales in a way that accords with the sustainable development principle; to require public bodies to report on such action; to establish a Commissioner for Future Generations to advise and assist public bodies in doing things in accordance	‘An Act to make provision to require Ministers of the Crown and others when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities; to reform and harmonise equality law and restate the greater part of the enactments relating to discrimination and harassment related to certain personal	Statutory Regulations made under section 153 <i>Equality Act 2010</i> , for the purpose of enabling the better performance by public authorities of the public sector equality duty (s149) (PSED) - the PSED and Welsh Specific Equality Duties (WSED) are set out in Table 3.	‘An Act of the National Assembly for Wales to improve arrangements for the prevention of gender-based violence, domestic abuse and sexual violence; to improve arrangements for the protection of victims of such abuse and violence; to improve support for people affected by such abuse and violence. The Act makes provision to: a) require the production of national and local strategies for tackling gender-based	‘An Act of the National Assembly for Wales to reform social services law; to make provision about improving the well-being outcomes for people who need care and support and carers who need support; to make provision about co-operation and partnership by public authorities with a view to improving the well-being of people; to make provision about complaints relating to

<p>with this Act; to establish public services boards in local authority areas; to make provision requiring those boards to plan and take action in pursuit of economic, social, environmental and cultural well-being in their area; and for connected purposes’.</p>	<p>characteristics; to enable certain employers to be required to publish information about the differences in pay between male and female employees; to prohibit victimisation in certain circumstances; to require the exercise of certain functions to be carried out with regard to the need to eliminate discrimination and other prohibited conduct; to enable duties to be imposed in relation to the exercise of public procurement functions; to increase equality of opportunity; to amend the law relating to rights and responsibilities in family relationships; and for connected purposes’.</p>		<p>violence, domestic abuse and sexual violence; b) provide the Welsh Ministers with the power to issue guidance to assist certain public bodies in contributing to the pursuit of the purpose of the Act; c) amend the Education Act 1996 to give the Welsh Ministers a power to make regulations to require local authorities to publish information about whether, and if so how, local authority education functions are being exercised to promote the purpose of the Act; and d) provide for the appointment by the Welsh Ministers of an adviser to give advice and other assistance to the Welsh Ministers in relation to achieving the purpose of the Act’.</p>	<p>social care and palliative care; and for connected purposes’.</p>
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Table 2. Public bodies subject to the legislation

WFG	WSEDs	VAWDASV	SSWB
<p>The Welsh Ministers; local authorities; Local Health Boards; NHS Trusts - (Public Health Wales; Velindre); National Park authority for a National Park in Wales; Welsh fire and rescue authority; the Natural Resources Body for Wales; the Higher Education Funding Council for Wales; the Arts Council of Wales; the Sports Council for Wales; the National Library of Wales; the National Museum of Wales.</p> <p>44 public bodies</p> <p>The Act established Public Services Boards which have well-being duties placed upon them (NB – These are different well-being duties to those placed on the 44 public bodies above)</p>	<p>The Welsh Ministers; The First Minister for Wales, The Counsel General to the Welsh Assembly Government; a subsidiary of the Welsh Ministers (within the meaning of 134(4) GOWA, 2006); Local Health Boards, NHS Trusts; community health councils; The Board of CHCs; County and County Borough Councils; Fire and Rescue authority; National Parks Authority; Governing bodies of Schools maintained by a LA, Further Education and Higher Education Institutions; establishment; The General Teaching Council,</p> <p>ESTYN; The Auditor General; the Wales Audit Office; The Public Service Ombudsman; The Care Council for Wales; The Arts Council; National Museum, National Library; The Sports Council, Welsh Language Board; The Countryside Council; The Older People’s and Children’s Commissioner (Schedule 19 Equality Act 2010).²⁹ Approx. 73 bodies (Welsh Revenue Authority is a recent addition). And third sector organisations when delivering publicly funded services.</p>	<p>The Welsh Ministers and relevant authorities (local authorities; local health boards; fire and rescue authorities and NHS trusts).</p> <p>Operates on health boards/trusts footprint.</p>	<p>Local Authorities, in collaboration with health boards and trusts and third sector partners, on a Regional Partnership Board footprint (RPB): Cardiff and Vale, Cwm Taf, Gwent, Powys, North Wales, Western Bay, West Wales.</p>

²⁹ Note name changes since 2010 - Welsh Government, Natural Resources Wales, Welsh Language Commissioner, Social Care Wales

Table 2a: Intended recipients of improved outcomes

WFG	Equality Act	VAWDASV	SSWB
<p>Whole Population Whole Place (to capture the environment in which the population lives)</p> <p>Indirectly outside of Wales via Goal 7 – A Globally Responsible Wales</p>	<p>Whole Population - Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation (8 Protected Characteristics, PCs).</p> <p>But if not taken as unidirectional within a binary - whole population</p>	<p>Whole population - education/communications. Specifically, victims of gender-based violence, domestic abuse, sexual violence</p>	<p>Intended to improve the well-being of people with care needs and of carers; including children and adults with care and safeguarding requirements, people with long-term illness/complex needs or learning disabilities, and their carers; should go wider - anticipate for people who may need care support in the future.</p>

Table 3. Statutory Duties

WFG	PSED/WSEDS	VAWDSV	SSWB
<p>‘Section 3 (1) Duty to carry out sustainable development (defined in the Act)</p> <p>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 using the 5 ways of working (sections 2, 3 and 5).</p> <p>Public bodies must publish a statement when setting their well-being objectives explaining why they feel the objective will help them achieve the goals and how it has applied the</p>	<p>Public Sector Equality Duty (PSED)</p> <ul style="list-style-type: none"> - eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act - advance equality of opportunity between people who share a relevant protected characteristic and those who do not - foster good relations between people who share a protected characteristic and those who do not. (section 149) <p>Welsh Specific Equality Duties (WSED):</p> <ul style="list-style-type: none"> Set equality objectives (reviewed every 4 years); Create Strategic Equality Plan; Engagement; Assess impact; Collate and use Equality information and Employment information; Address Pay differences; Staff training; Procurement; Produce annual report; 	<p>Create and publish Joint strategies.</p> <p>Welsh Ministers must:</p> <ul style="list-style-type: none"> prepare, publish review and implement a National Strategy (section 3); publish National Indicators (section 11); publish an annual progress report (section 12); appoint a National Adviser (section 20); and publish each annual report and annual plan sent to them by National Advisers (section 23). <p>National Advisers must:</p> <ul style="list-style-type: none"> send the Welsh Ministers an annual plan and annual report (section 22) <p>Local authorities and local health boards must:</p> <ul style="list-style-type: none"> jointly prepare, publish, review and implement local strategies (sections 5 and 6); and 	<p>Overarching Duties:</p> <p>Well-being duty for adults and children with care needs and covers individual well-being and participation, including socio-economic well-being and in relation to adults - control over everyday life and participation in work</p> <p>Duties to assess the needs of an adult for child for care and support,</p> <p>Duties to meet the care and support needs adults, children or carer.</p> <p>Duty to carry out a financial assessment; duty to give effect as to a person’s ability to pay a charge; duties to report adults and children at risk; duty to co-operate, to direct payments</p>

<p>sustainable development principle. (section 7)</p> <p>Duty to take all reasonable steps to follow a recommendation from the FGC (unless good reason not to/ adopts an alternative course of action),</p>	<p>Publish on website (Section 153 and the Equality Act 2010 (Specific Duties) (Wales) Regulations 2011</p>	<p>publish annual reports on progress in implementing their strategies (section 13).</p> <p>A relevant authority must: follow statutory guidance unless it has a good reason not to, it proposes an alternative course of action and it issues a policy statement (section 17); comply with reasonable requests made by the National Adviser (section 21).</p>	<p>Duty to issue a statement of the outcomes to be achieved</p>
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Table 4. Specific duty to set objectives

WFG	PSED/WSEDs	VAWDASV	SSWB
<p>Set out well-being objectives and the actions bodies will take to achieve them. The act does not specify how often objectives should be renewed (sections 3 and 7).</p> <p>Use the 5 ways of working to set objectives - must involve local communities, including by 'reflecting the diversity of their area' (section 5)</p>	<p>Set Equality Objectives (reviewed every 4 years) (regulations 3 and 4)</p> <p>Duty to address 'pay differences' by gender or evidence why not needed.</p> <p>If one of the eight PSED protected characteristics has no set objective, evidence why not. (regulations 11 and 12)</p>	<p>Welsh Ministers must: set objectives (within the National Strategy) to achieve the purposes of the Act; set timescales to achieve the objectives; and Specify the actions to achieve the objectives (section 3).</p> <p>Local authorities and local health boards must: set objectives to achieve the purposes of the Act; set timescales to achieve the objectives; and specify the actions to achieve the objectives (section 5).</p> <p>Local authorities must, in setting objectives, have regard to the national strategy, their needs assessment under s14 of the SSWB Act; and the most recent strategic assessment under the Crime and Disorder Act (section 7(1)(a)).</p> <p>The National Advisers must prepare an annual plan in which they: set their objectives and priorities; state what they propose to report on during the year; and state any other activities they propose to undertake during the year (section 22).</p>	<p>Welsh Ministers must specify outcomes to be achieved in terms of the well-being of people who need care and carers who need support.</p> <p>RPBs set own objectives for 5-year plans</p>

Table 4a: Improving evidence – Understanding the needs and opportunities through assessment

WFG	WSED	VAWDASV	SSWB
<p>Service Boards (“PSBs”) have to publish a Local Assessment of the current state of well-being (“Assessment”) setting out the state of economic, social, environmental and cultural well-being their PSB area (section 37).</p> <p>This assessment will form the basis of objective setting as set out in a PSB’s local well-being plan (section 39).</p>	<p>Assessment prior to setting objectives is inferred under duty to produce a strategic plan but this is not explicit (e.g. a body must engage with people and have regard to relevant information – regulation 4(1)).</p> <p>The plan (could) describe the purpose of public body and services it provides according to the needs of the local population, and these needs by equality groups.</p> <p>Impact Assessment of new or revised policies to assess potential for detrimental effect on PCs (regulation 8).</p>	<p>See matters which local authorities and local health boards must have regard to when drafting their local strategies</p> <p>In addition, the Welsh Ministers may require local authorities and local health boards to review their local strategies at any time (section 6(3)(b)).</p> <p>The functions of the National Adviser include: advising Ministers and others in relation to pursuing the purposes of the Act; conducting research relating to the purposes of the Act or examining whether abuse is related to inequality in relation to gender, gender identity or sexual orientation (section 21).</p>	<p>Population Needs Assessment (PNA) informed by (an aggregation of) people’s individual assessments/care plans in the area, produced jointly by regional partnership boards to assess local population needs.</p> <p>LAs and partners (which goes wider than health, to include citizens, third sector and provider representatives) also work together to plan the response to those needs in the form of an area plan.</p>

Table 5. Reporting

WFG	WSED	VAWDASV	SSWB
<p>Each public body is required to communicate the progress they are making in achieving their well-being objectives on an annual basis. This is in the form of an 'Annual Report' (section 13).</p> <p>PSBs must prepare annual progress reports specifying the steps taken to meet the objectives set out in the local well-being plans (section 45).</p>	<p>Publish Annual Report (regulation 16)</p> <p>Welsh Ministers' 4 yearly review of progress and separate disability focused report (regulation 17, including paragraph (4))</p>	<p>Welsh Ministers must publish annual reports on progress against the purposes of the Act.</p> <p>Welsh Ministers must publish National Indicators to measure progress towards the purposes of the Act (section 12). A national indicator may measure progress over a period of time Welsh Ministers deem appropriate (section 11).</p> <p>Local authorities and local health boards must publish annual reports on progress towards the objectives in their local strategies (section 13).</p> <p>The National Advisers must publish annual reports on the extent to which they have met their objectives (section 22).</p>	<p>Safeguarding Boards must publish an annual plan setting out its objectives for that year.</p>

Table 6. Monitoring and scrutiny

WFG	WSED	VAWDASV	SSWB
<p>A public body must review its objectives if the well-being goals are amended (s9(3)) and it may do so at any other time (s9(5)). However, as part of its annual reporting, if it considers that a well-being objective is no longer appropriate it must revise it.</p> <p>The Future Generations Commissioner for Wales has a duty to monitor the achievement of well-being objectives by public bodies (section 18). A monitoring framework of the outcomes of the Act and achievement of the well-being goals is established through the 46 National Well-being Indicators. The indicators must be set by the Welsh Ministers (section 10). WG currently consulting on milestones.</p> <p>Scrutiny will take place via Local Government Scrutiny and National Assembly Committees. AGW required to assess ...'the extent to which they [44 PBs] have acted in accordance with the sustainable development principle when: a) setting well-being objectives, and b) taking steps to meet those objectives. Must assess each PB at once in each 5-year period; present report to National Assembly for Wales before each Assembly election; take account of advice given by FGC and consult the Commissioner. In addition, enabling approach adopted in FGC/AGW Memorandum of Understanding on fostering good practice in advising and reviewing PBs.</p>	<p>WG monitors how it and other public bodies in Wales are meeting their duties. (regulation 17).</p> <p>The EHRC and EHRC Wales monitors the effectiveness of the law (<i>Equality Act 2006</i>)</p> <p>Scrutiny will take place via Local Government Scrutiny and National Assembly Committees.</p> <p>WAO can assesses how the PSED is being applied through VFM studies, and public services reviews (e.g. Housing Adaptations Study, 2018), and could increase assessment of application in local performance audits with health and local government.</p>	<p>Monitoring framework and indicators in development.</p> <p>The Equalities, Local Government and Communities Committee effectively holds the portfolio Minister to account for delivering the purposes of the Act. Welsh Assembly Members also hold Welsh Ministers to account through written and oral assembly questions.</p> <p>The WAO is published its report on its call for evidence on the VAWDASV Act in July 2017. It has used the evidence to develop themes for study during 2018-19</p>	<p>Local Government Scrutiny Committee</p>

Table 7. Accountability / Enforcement

WFG	WSED	VAWDASV	SSWB
<p>The FGC has reviewing powers in relation to how well public bodies undertake assessments, take steps to meet their objectives and create objectives that will contribute to Wales meeting its well-being goals. The FGC can make recommendations for redress (see 6 below)</p> <p>The Act recognised existing ‘accountability arrangements’, and new arrangements have been established since enactment for delivering the duties</p> <p>Existing:</p> <ol style="list-style-type: none"> (1) People and service users (2) Internal Audit (3) National Assembly for Wales (4) Local Government scrutiny (5) Auditor General for Wales – Examination Duty (6) Future Generations Commissioner for Wales Reviews - Section 22 – duty on public bodies to follow a recommendation of the Commissioner unless it has “good reason for not following it” or it “decides on another course of action” – and must publish its response to the recommendation 	<p>Equality Act 2006: provides powers to carry out investigations; issue “unlawful act notice”; make applications to the Court to grant injunctions or orders compelling certain acts; the EHRC can assist and fund cases brought by individual for breaches of the Equality Act 2010; with the support of the Lord Chancellor can assist or fund cases for breaches of human rights.</p>	<p>The Act gives Welsh Ministers powers to direct relevant authority to take any action which the Welsh Ministers consider appropriate in accordance with statutory guidance issued under the Act (section 19)</p>	<p>Section 171 onwards provides for regulations to be made for complaints to be made to various bodies, including to the Public Services Ombudsman and for advocacy services to be made available to complainants.</p> <p>The Act gives Welsh Ministers powers of direction under section 153, 154, 155 or 157, the power to set ‘direction orders’</p>

Further information on the legislation within scope:

The Well-being of Future Generations Act 2015

The WFG places a Well-being duty on public bodies, requiring that:

Each public body must carry out sustainable development, defined as the process of improving the economic, social, environmental and cultural well-being is achieved:

In this Act “sustainable development” means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals (WG, 2015, 4).

The sustainable development principle (or ‘five ways of working’) encompasses the following:

Long term - The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.

Prevention - How acting to prevent problems occurring or getting worse may help public bodies meet their objectives.

Integration - Considering how the public body’s well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of public bodies

Collaboration - Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.

Involvement - The importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the body serves.

The Seven Well-being goals are; a more prosperous, healthier, resilient, cohesive, vibrant, globally responsible and equal Wales. *A more equal Wales is defined as:*

A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances).

Specifically, in relation to aligning well-being and equalities, the Act requires a Well-being Statement. In this regard the Welsh Government states:

Public bodies must publish a statement when setting their well-being objectives explaining why they feel the objective will help them achieve the goals and how it has applied the sustainable development principle. They must also make sure that they involve people interested in achieving the goals and that those people reflect the diversity of their area (WG, 2015).

This provides a conduit for co-working between those staff working on well-being and those working on equality, who often work in service areas and corporate departments respectively. It also provides potential for joint guidance on engagement.

The Public Sector Equality Duty

The duty is in two parts. The General Duty (GD), as set out in section 149 of the Equality Act, which requires that in exercising their functions, public bodies are required to have due regard to the need to:

1. eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act
2. advance equality of opportunity between people who share a relevant protected characteristic and those who do not
3. foster good relations between people who share a protected characteristic and those who do not. (EHRC Wales, 2012).

In the Equality Act, meeting the General Duty includes:

- removing or minimising disadvantages experienced by people due to their protected characteristics
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people
- encouraging people with protected characteristics to participate in public life or in other activities where their participation is disproportionately low (EHRC Wales, 2012).

Public bodies are expressly allowed to treat some people more favourably than others to achieve these aims. This indicates that moving to an equity model of equality, as recommended by the GER, to increase a focus on equality of outcome, can be facilitated by the General Duty, as long as actions don't contravene other provisions in the Equality Act.

The Welsh Public Sector Duties 2011

These duties are described as 'the stepping stones' to achieving fairness and ensure that equality is considered in all decision and policymaking (the aim of the General Duty). The duties are set out by the Welsh Ministers in Regulations. However, they do not have the power to issue statutory guidance. Non-statutory guidance is issued by the EHRC.

The current suite of Welsh Specific Equality duties includes:

- **Setting Objectives:** to meet the aims of the General Duty, say how it will achieve these, use equality information to set objectives, review every 4 years (regulations 3 & 4)

- Publishing and review Strategic Equality Plans (SEPS): describe authority and objectives set, monitoring, arrangements for gathering the equality and employment information required, arrangements for publishing, impact assessment etc. (regulations 14 and 15)
- Ensure Engagement: involve or consult people from one or more of the protected groups in the setting of objectives and SEPs, identifying how the body will meet the GD, and in impact assessment (regulations 4 and 15)
- Assessing impact: new, revised policies must be impacted assessed, IAs published, assess how policies are helping the body meet their equality objectives (regulation 8)
- Collating and using equality information in decision making: assess data it holds, what it needs/improve data collection, publish equality information if appropriate, must publish pay data (regulations 7 and 9 and Equality Act 2010 (Gender Pay Gap Information) Regulations 2017)
- Collating and using the employment information that it holds: gender by job, grade, pay, contract type and working pattern, across all PCs': applications, successful recruitment and training applications/completions (and not successful), grievances, disciplinaries, left employment. Publish in annual report (regulation 9).
- Pay differences: consider pay differences across all protected characteristics and undertake a gender segregation analysis for gender, (see employment information above), publish pay gap and produce an action plan annually (regulations 11 and 12)
- Staff training: promote knowledge of the General Duty, assess and improve understanding as needed (regulation 9)
- Procurement: consider when it would be appropriate to use award criteria or contract performance criteria to help body meet its General Duty (public contracts/framework agreements) (regulation 18)
- Annual reporting: on steps taken and how effective they've been, how it used its information/ effectiveness of such, progress towards meeting objectives, specified employment information (regulations 12 and 16)
- Publishing - annual report, SEP, objectives, and reasons for not having an objective on any of the PCs or on gender pay differences, its action plan on pay differences, report on impact assessments, employment and equality information, all must be in accessible formats (regulations 3, 4, 7, 8, 9, 11, 12 and 15)
- Welsh Ministers' reporting: subject to all the duties and must publish review of how devolved public authorities in Wales are meeting their general duty every 4 years (interim report every 2) (regulation 17).

- Review - Objectives and SEPs at least every 4 years. Review its impact assessment, monitoring effectiveness, data it has/needs/ is using (regulation 4).
- Accessibility - for all published documents (EHRC Wales, 2012) (regulation 6).

There is no requirement to work on an intersectional basis, although the Commission encourages this, and uses intersectional analysis where data is available in its triennial reviews. As discussed, socio-economic intersections are specified in objective setting.

The Violence Against Women, Domestic Abuse and Sexual Violence Act 2015

requires the Welsh Government to appoint a National Adviser (section 20); publish a national strategy (section 3), national indicators (section 11) and an annual progress report (section 12). It also grants the Welsh Ministers powers to issue statutory guidance (section 15) to relevant authorities on:

- awareness raising of, and changing attitudes to VAWDASV;
- commissioning specialist advice and assistance;
- circumstances in which it is appropriate to ask if someone is a victim of VAWDASV and the action to take;
- workplace policies to promote the well-being of employees who may be subject to VAWDASV;
- training
- information sharing
- co-operation between relevant authorities

The Act also amends the Education Act 1996 to allow Welsh Ministers to make regulations to require local authorities to provide information on how they are exercising their education functions to deliver the purposes of the VAWDASV Act (section 9). This is a discretionary power that Welsh Ministers have not, so far exercised.

Welsh Ministers are also empowered by the VAWDASV Act to issue directions to relevant authorities when the authority has issued a policy statement relating to statutory guidance, and the Ministers believe the authority has failed or proposes a course of action that will lead them to fail, in their duties under the VAWDASV Act to implement the purposes of the Act (section 19).

A person exercising relevant functions must have regard to the need to remove or minimise any factors which increase the risk of, or exacerbate, the impact of violence against women and girls (section 2).

The Social Services and Well-being Act 2014

Requires local authorities, health boards and NHS trusts to work together to ensure better integration of health and social care. This includes simplified care and support needs assessments (and carer support needs assessment) based on an area population assessment. Local Authorities and Local Health Boards do this through establishing Partnership Boards. The preventative agenda includes fostering social enterprises in this area of service delivery. Services will be co-produced by providers and service users, with the latter as equal partners in the process. Carers will have a right to carers assessments to identify their support needs, access to information is improved and safeguarding will be enhanced through stronger powers (WG, 2015).

The assessment of a person's needs for care and support is driven by the personal well-being outcomes they wish to achieve and whether they need managed care and support to achieve this.

Equality Act 2010 Part 1: the 'socio-economic duty'

S.1.

(1) An authority to which this section applies must, when making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.

(2) In deciding how to fulfil a duty to which it is subject under sub-section (1) an authority must take into account any guidance issued [in accordance with sub-section (2A)]

(2A) - The guidance to be taken into account under sub-section (2) is -

(aa) in the case of a duty imposed on an authority in relation to devolved Welsh functions, guidance issued by the Welsh Ministers.

