



Lessons for a UK Future Generations Bill

Update note 21/10/2019: This research has been used by The Lord Bird (Co-chair of APPG on Future Generations) to draft and lay a Private Members Bill to this effect. See: <https://services.parliament.uk/bills/2019-21/wellbeingoffuturegenerationsbill.html>

Introduction

This paper is written to advise members of the APPG on Future Generations and others, of relevant considerations for a UK Future Generations Bill.

Summary

A UK Future Generations Bill would help ensure that long-term thinking is embedded into UK policy making processes.

To develop a Future Generations Bill, UK policy makers could follow the model of the [Well-being of Future Generations \(Wales\) Act 2015](#). In Wales having a clear mandate to consider future generations and a Commissioner responsible for championing future generations rights is empowering policy makers to take account of the long term. Additionally, such a bill could also be used to improve other aspects of policy making, such as putting well-being as a shared goal at the centre of policy decisions.

To support policy makers considering this, this document looks at:

- The lessons learned from various Offices for Future Generations around the globe, including the need for public support and consultation
- The specific lessons learned from the drafting and implementation of the Welsh Bill, as set out in the table below.
- The broader context of UK policy making compared to Welsh policy making, including the need to fairly cover devolved issues and the UK's responsibility for risks including in environmental policy and managing national security risks. This is also set out in the table below.

Out of scope of this research

Short-termism is not the only challenge to policy making. There are a number of other related issues that could be legislated for alongside, as part of a UK Future Generations Bill. For the purpose of this paper these issues are out of scope. These issues include:

- **Wellbeing as a shared government goal.** The Welsh Future Generations Act puts in place Wellbeing Goals, these set a shared wellbeing-focused cross-government direction.
- **International cooperation,** which is required to address many long term issues or prevent tragedy of the commons or arms race type situations.
- **Cross-government Cooperation.** Sometimes miscommunication, differing priorities and a lack of cooperation between government bodies can lead to harmful situations. The Welsh Future Generations Bill addressed this issue, through setting up public service boards.
- **Compassionate decision making.** There is interest in work to explicitly encourage empathy and compassion in politics.
- **Companies.** Legal changes could affect the motivation and ability corporate leaders have to take action that harms or benefits future generations.

The UK policy context

The challenge

It is not the aim of this document to make the case for more long term thinking. Many others have already made that case (For information on who is calling for changes see: [Policy making for the long-term: Literature and stakeholders](#).) However some understanding of the challenges is needed in order to understand what a future generation bill might be able to achieve.

The UK is recognised as having a world-leading policy system that adapts and grows to meet new challenges as they arise. For example, consider the creation of Implementation Units to improve delivery, or the Centre for Data Ethics and Innovation which looks at the implications of new technology. Additionally the UK has many cases of good long term policy making, such as automatic enrolment in workplace pensions, the energy capacity market, the NHS Long Term Plan and many others.

But this does not mean that improvements cannot be made. Short-termism is a challenge for any country, and democratic processes will incentivise those in power to restrict their thinking to short-term political cycles. There are clear signs that in some areas short-termism is adversely affecting policy making in the UK. For example the [April 2019 report of the Lords Intergenerational Fairness Select Committee](#) said that “successive governments have ... failed to plan for the long-term. This lack of foresight lies behind many of the problems we see in housing, education and the workforce.”

Breaking down the problems

Two particular problems of short-termism have been raised by Parliamentarians to the APPG for Future Generations. They are:

1. **Prevention.** Not enough is invested into preventing problems arising. For example analysis by Lord Bird, founder of the Big Issue Foundation, highlights that 80% of spending on poverty is spent on coping with emergencies and ongoing problems and only 20% is spent on preventing or curing problems, he argues that a greater investment in prevention could drastically change the levels of poverty in the UK in the long term.
2. **Long term national and existential security threats.** There is a lack of incentive for Government to deal with long term emerging issues, especially low-probability high-impact future threats. For example the National Risk Assessment (NRA) looks ahead two years and no Minister is assigned responsibility for long term risks, even where there exists clear and credible long-term mitigation strategies. For more on this see the section on Long-Term Trends on p17-18 of the [Parliamentary Office of Science and Technology's report on the National Risk Assessment](#).

It is also worth noting that currently in the UK there is **no clear best practice, or government statement of approach on how to balance the needs of the future with the needs of the present**. This lack of clarity could be leading to inconsistent policy and un-transparent decisions. This can be evidenced by looking at the approach to Future Generations as set out in the Treasury Green Book (the government's guidance on how to appraise policies). The Green Book (in the guidance on [Intergenerational Wealth Transfers](#)) has a 50 year cut off point only beyond which future generations can be considered equally. This is seemingly arbitrary and no attempt is made in the Green Book to justify this. The explanation for this deserves more research and this maybe the result of post-hoc attempting to justify the Government taking a more future focused approach to climate issues than other issues.

The policy vision

Ideally the UK would **have in place the processes, procedures and accountability mechanisms** to ensure **all policy made in the UK balances the long and short term, fully considering the needs of future generations**.

The main aims of introducing a UK Future Generations Bill would be:

1. **General improvements to UK policy making** are ongoing, and the UK can remain a global leader in policy.
2. **Policy focused on prevention and cure receives sufficient investment** of government time and funds (as opposed to policy focused on coping or dealing with current emergencies), and that this is a feature of the UK system.
3. **Policy is in place to address and mitigate global catastrophic and existential risks** and is well constructed and receives sufficient investment of government time and funds, and that this is a feature of the UK system.

Lessons for a UK Future Generations Bill

Learning from a global context

Globally a number of countries, including Finland, Hungary, Israel, Scotland, Singapore and Wales have introduced policy mechanisms to protect future generations.[1] A number of countries around the world are also considering this and the Commissioner for Future Generations in Wales has had questions and interest from Australia, Gibraltar, the UAE and the UN.

These mechanisms look to address three main issues:

- **Short-termism.** Government action tends to focus on the short term. Future generations have no political voice so their needs are often ignored. This is costly as later governments may be burdened by unnecessary costs imposed on them by previous governments.
- **Anthropogenic risks.** Mechanisms need to be in place to preserve the environment for future generations from risks ranging from nuclear proliferation to climate change to risks arising from future technologies like AI or synthetic biology.
- **New technologies.** New transformative technologies that alter the way we live are being developed at an increasingly fast rate. Policy needs to be able to adapt to ensure the implications of these new technologies are considered and addressed.

The paper [Representation of future generations in United Kingdom policy-making](#) and the Foundation for Democracy and Sustainable Development's report on [Democratic Case for an Office for Future Generations](#) look at the Future Generations processes put in place to date in Finland, Hungary, Israel, Singapore, Scotland and Wales and draws some conclusion for the UK context.

To summarise any Future Generations office created in the UK should ideally:

1. **Be independent.** It should:
 - Be firmly constitutionally entrenched, for example in primary legislation.
 - Have some independence from direct government control.
2. **Have only limited powers.** It should:
 - Have a monitoring advising and/or research role
 - Not be given substantive powers, such as a veto power or strong enforcement powers, as institutions with veto powers did not last long.
3. **Have public legitimacy.** It should:
 - Be seen as legitimate by the public and politicians across different parties.
 - Be transparent.
 - **Be built on the basis of public engagement.** That could include a consultation prior to creation and/or creating a body that routinely engages the public with its decision-making on future matters, for example with citizens' councils or petitioning.

- Work to build public engagement with future issues.
- Not rest too heavily on the personality of a specific Commissioner
- 4. **Cover existential risks and key areas of academic concern.** It should
 - Be explicitly mandated to consider existential risks arising from technological innovation. Given the evidence from academia of future risks this has been a blind spot in previous bodies.
 - Have a multi-disciplinary team
 - Engage academics

The Office of the Welsh Future Generation Commissioner also stress the point that any Future Generations Office in the UK should be based on public support, and a broad public consultation.

Learning from and necessary differences with the Welsh Future Generations Act

The table below looks at the [Wellbeing of Future Generations Act \(Wales\) 2015](#). It draws out the lessons that can be learned, largely based on conversations with the Office of the Commissioner for Future Generations. It makes suggestions of things to consider or do differently if a policy maker was keen to introduce a UK Future Generations Bill.

As well as accounting for lessons learned from the Welsh and global contexts, a UK Future Generations Bill would need to cover a range of issues not covered by the Welsh Future Generation Bill, as UK policymaking has a broader interest. Most notably this includes how it the bill handles devolved issues and the UK's responsibility for national risks including in setting environmental policy and managing national security risks.

The Welsh Future Generations Act	Concerns with / lessons learned from Wales	Considerations for a UK Future Generations Bill
PART 1 An introduction to the Act	The Welsh act received some criticism for being toothless. [2]	Making the purpose of the act clear could help defend against criticism. It should be made clear in the introduction or elsewhere that the Bill looks to create change by putting in place systems to encourage, oversee, support, and advise on good long-term policy. It is not (at least in this iteration) focused on overruling decisions.
PART 2 s1, s2, s5(1) Requires all bodies to act in line with a core “Principle”. The Welsh Principle is based around Sustainable Development and states: <i>“act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.”</i>	This has worked well. The Welsh Future Generation Commissioner reports that the Act has empowered engaged individuals who work in the Welsh government to think long-term and challenge short-termism where they see it. [3] (Technical note: It is unclear from the Welsh legislation if the requirement on public bodies applies to decisions made prior to the commencement of the Bill. This should be clarified one way or another.) [4]	The wording of a principle should be given serious consideration. This forms the basis for the whole act and the exact wording of such a principle should be given due address and serious thought by decision makers and legal drafters. The Welsh version is certainly sufficient but other forms of wording should also be considered. For example <ul style="list-style-type: none"> • Intergenerational equality: <i>“In the creation of government policy all future generations, including those that do not yet exist, should be considered as equal in worth and value with the current generations.”</i> • Intergenerational fairness: <i>“Each generational cohort should retain a fair expectation of social improvement and can have a fulfilling life without being unduly harmed by the actions of a previous or subsequent cohort”</i> The principle based around intergenerational equality would be the strongest, requiring not just that the UK does not leave a broken world to future generations but that policy makers have a positive concern for Future Generations wellbeing. [also most consistent across different policy areas and most well defined].
PART 2 s4 This section sets out a number of wellbeing goals that all bodies need to ensure is a core part of their decision making.	The Wellbeing goals were the result of the Wales We Want National Conversation. The Welsh Commissioner's office has advised strongly that any UK wellbeing goals are also based on a broad public consultation.	Wellbeing goals are an optional extra. Setting wellbeing goals, ensuring all government bodies are working towards the same high-level goals is a worthy aim. However, in this instance the Welsh Bill is doing more than is needed if the only aim was to tackle short-termism.

	Some concern has been expressed at the number of wellbeing goals rather than having a single clear aim for citizen wellbeing.	<p>Public bodies can engage in long term thinking under the auspices of their existing public goals (without a new set of shared goals being created). It is therefore unnecessary for a bill focused on future generations to set out wellbeing goals like the Welsh legalisation did.</p> <p>There are groups and individuals pushing for making wellbeing and welfare the key goal of government policy and those groups should be brought on board with any drafting of UK-wide wellbeing goals.</p>
<p>PART 2 s5(2)</p> <p>This section elaborates on the Sustainable Development Principle setting out ways of working that would be in line with the principle and the wellbeing goals.</p> <p>This means taking a: balanced, integrated, collaborative and preventative approach</p>	The Welsh Bill focuses on offering a negative check and balance to ensure policy being considered has concern for future generations. It is possible that there is space for more positive encouragement to do additional work such as horizon scanning and risk management. ¹	<p>Setting out ways of working in line with a UK future generations principle could, in line with the Welsh Act, include:</p> <ul style="list-style-type: none"> • Taking a balanced approach between the short-term needs and long term benefits • Considering the importance of investing in prevention and cure policy <p>Additionally, if implementing a UK Future Generations bill, legislators may want to consider also including</p> <ul style="list-style-type: none"> • The importance of long term planning • The importance of risk management • The importance of foresight and horizon scanning work
<p>PART 2 s6-s16</p> <p>This section sets out details of what it means to follow a sustainable development principle.</p> <p>It sets out separate rules for three categories of public bodies:</p> <p>1. All public bodies (including Ministers) are required to:</p>	<p>Overall this seems to be working well.</p> <p>One criticism of the Welsh model is that it is overly burdensome on public bodies. It requires consideration of future generations at every level of decision making across all public bodies.[5] It affects even small local decisions about schooling and class sizes.</p>	<p>A UK bill would cover English and non-devolved matters</p> <p>It would make sense for a UK wide Future Generations Bill to apply to English and non-devolved public bodies. Ideally the Devolved Administrations and the public bodies affected would be engaged in the decision making in introducing such a bill.</p> <p>Follow the Welsh model</p> <p>A UK bill could follow the Welsh Model by putting responsibilities on</p> <ol style="list-style-type: none"> 1. All public bodies (including Ministers) to act in line with the Future Generations Principle, to set targets and report on progress and to heed the advice of a Future Generations Commissioner. 2. All Secretaries of States to also ensure their departments produce guidance and to engage in long term horizon scanning. Maybe additionally (as mentioned above) to

¹ See [Policy making for the long-term: Literature and stakeholders](#)

<ul style="list-style-type: none"> ● Act in line with the sustainable development principle. ● Measure and report on their progress in following the principle. ● Take into account the Future Generations Commissioner reports. <p>2. Welsh Ministers must additionally</p> <ul style="list-style-type: none"> ● Publish Future Trends reports ● Publish “national indicators” and milestones to track progress ● Issue guidance to support public bodies <p>3. The Auditor General for Wales must</p> <ul style="list-style-type: none"> ● carry out examinations public bodies to ensure compliance with the above, and consider the views of the Future Generations Commissioner 	<p>Another consideration is that different long term interest may contradict. For example a need for infrastructure and a need for environmental protection. The success of the Future Generations Bill in blocking an expansion to the M4 has been seen in this light. [6]</p>	<p>also ensure their departments engage in long term planning and risk mitigation work.</p> <p>3. UK audit and oversight bodies to carry out examinations to ensure public bodies are compliant. Across the UK it would be reasonable for this to include both the National Audit Office and other oversight bodies such as: Better Regulation Executive, Office for Budget Responsibility, National Institute for Health and Care Excellence, Independent Commission for Aid Impact, etc</p> <p>UK policy covers a broader remit</p> <p>A Future Generations Bill in the UK need to consider that most policy is not devolved and that the remit of non-devolved public bodies is much broader than the remit of Welsh public bodies. For example, matters such as defence and national security are not devolved. The need for additional rules should be considered.</p> <p>Examples of specific rules that it may be useful to introduce include:</p> <ol style="list-style-type: none"> 1. Prevention spending There should be a responsibility on the Chancellor or the Exchequer to ensure and report on how budget and spending review follow the future generations principle, including the amount of investment in prevention policy. 2. Long term national and existential security threats. The Secretary of State for the Cabinet Office (or perhaps Defence) should be required to ensure adequate national risk assessment that captures future emerging issues, global existential and environmental threats and looks ahead at least 25 years, and departments need to explain what (if any) action is being taken to mitigate and prepare for future risks they are responsible for. 3. Statistics and transparency. There maybe statistics on intergenerational distributions and long term trends that it would be useful for the Office of National Statistics to be producing. <p>Reducing administrative burden</p> <p>One option for reducing the administrative burden on public servants in a UK version of the Welsh Bill would be to target requirements at the strategic oversight functions of public bodies, rather than on every decision made by any individual in those public bodies.</p>
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<p>PART 3</p> <p>This section sets out the creation of a Future Generations Commissioner for Wales.</p> <p>The Commissioner is appointed by the Welsh Ministers.</p> <p>The Commissioner will have a duty to:</p> <ul style="list-style-type: none"> • Promote the sustainable development principle, the rights of future generations and long-termism in policy making. • Monitor and assess public bodies meeting the Wellbeing objective. <p>The Commissioner can:</p> <ul style="list-style-type: none"> • Provide advice or assistance • Encourage best practice • Research the sustainable development principle, and how it is used • Review and make recommendations to public bodies. The Commissioner may require information to be provided for this. <p>The Commissioner must publish a future generations report. Before doing so they must</p>	<p>The existence Welsh Commissioner (Sophie Howe) is seen as one of the key aspects of the Act and as a figurehead for the act. The Commissioner is often part of the act that receives media attention.</p> <p>Commissioner powers</p> <p>The office of the Welsh Future Generations Commissioner have stated that one weakness of the legislation is that the Commissioner lacks sufficient power and resources to be as useful as they would like to be.</p> <p>It is still unclear exactly how much power the Welsh Commissioner has. They believe that they can judicially review decisions made by public bodies that have not accounted for the sustainable development principle. However so far the Commissioner has yet to take any public body to court so this is untested.</p> <p>Public engagement</p>	<p>Appointing a commissioner given devolution</p> <p>As suggested above a UK wide UK Future Generations Bill would apply to English and non-devolved public bodies. It would make sense for a UK Future Generations commissioner to be appointed by a UK Minister (for example the Prime Minister or the Minister for the Cabinet Office) after first consulting with the Devolved Authorities.</p> <ul style="list-style-type: none"> • <u>Precedent</u>: The Intendent Anti-Slavery Commissioner (see the <u>Modern Slavery Act 2015, Part 4</u>) <p>Appointing a commission rather than a commissioner</p> <p>Analysis of the closing of the Israeli “Knesset Commission for Future Generations” suggests that its legitimacy rested too heavily on the personality of the Commissioner and a change in administration meant that the Commission fell out of favour. To counter this risk UK policy makers may consider setting up a Commission with a body of Commissioners as opposed to a single Commissioner, or by putting in place mechanisms to allow new governments to appoint a new commissioner. (If there is a multi-person commission the devolved administrations could each appoint an individual.)</p> <ul style="list-style-type: none"> • <u>Precedent</u>: The Equality and Human Rights Commission (see <u>Equality Act 2006, Schedule 1</u>) <p>Add a public engagement function</p> <p>Following the lessons learned from other countries and Wales, UK policy makers should consider adding an additional duty for a UK Commissioner for Future Generations to engage the public on issues affecting the long-term future. Additionally, or alternatively it could also be useful to have a public conversation prior to a commissioner being established.</p> <p>Add a responsibility to ensure that due consideration is being given to existential risks.</p> <p>Following the lessons learned from other countries, UK policy makers should consider adding an additional duty for a UK Commissioner for Future Generations to ensure that the UK gives due consideration to existential, environmental and catastrophic risks arising from new technologies. Alternatively, a Secretary of State could have this responsibility (as suggested above) and the Commissioner should be required to assess and report on how successfully this duty is being carried out.</p> <p>Significant changes to the powers of a UK Future Generations Commissioner</p>
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<p>consult with public bodies and representatives of the public.</p> <p>Public bodies must follow the Commissioner's recommendations or publicly explain the reasons for alternative action.</p> <p>An advisory panel for the Commissioner will be set up including relevant senior government officials.</p>	<p>The office of the Welsh Future Generations Commissioner stresses the need for public engagement and that the legitimacy of the Welsh Future Generations Act and Commissioner has been built on the back of the Wales We Want National Conversation.</p>	<p>As discussed above it is evident for international comparisons that, globally, future generations bodies with significant power are often shut down within a few years. With this in mind it would likely be a mistake to give a UK Future Generations commissioner significantly more powers than the Welsh Commissioner. It may even be prudent to consider limiting the power of a UK Commissioner.</p> <p>At best there may be small ways of differently wording a UK Future Generations Bill that could give the Commissioner slightly more power or resources, for example a line could be added to say that:</p> <p><i>"The Commissioner may request a specified public authority to cooperate with the Commissioner in any way that the Commissioner considers necessary ..."</i> (Quoted from the Modern Slavery Act 2015)</p> <p>On level of resources the text could be extended to say that</p> <p><i>"The [Secretary of State] shall pay to the Commission such sums as appear to the [Secretary of State] reasonably sufficient for the purpose of enabling the Commission to perform its functions."</i> (Quoted from the Equality Act 2006 Schedule 1, part 3)</p>
<p>PART 4</p> <p>This section sets up public service boards to ensure joint working and collaboration by public bodies across Wales and that wellbeing is given a priority in decision making.</p>		<p>Similar to the setting of wellbeing goals, ensuring all government bodies are working together is a worthy aim. However, if the goal is solely to tackle short-termism, it is unnecessary for a bill focused on future generations to set out the creation of Public Service Boards.</p>
<p>PART 5 s52-s54</p> <p>This section sets out the parts of the legislation that Welsh Ministers can amend through secondary legislation, and the process for such amendments. For example a requirement that (in most cases) Ministers first</p>		<p>In the UK responsibility for legislation and secondary powers are given to specific Secretary of States rather than to UK Ministers as a whole. It is likely that this piece of legislation and powers to amend it should fall to the Cabinet Office. (This might be to the Minister for the Cabinet Office or the Prime Minister - this could be a question for lawyers.)</p> <p>It was suggested that a Commissioner for Future Generations initially be given fairly weak powers. There may be ways to allow the amount of power given to a Commissioner to change with time, such as giving powers to adjust the ways of working in line with the</p>

consult the Commissioner before making amendments.		future generation principle or setting a date and expectation for the legislation to be reviewed.
PART 5 s55-57 & SCHEDULE 1-3 These sections provide additional rules and details.	No issues with these sections.	A UK Bill could follow the Welsh Bill where relevant.

Conclusion

A UK Future Generations Bill could help ensure that long-term thinking is embedded into UK policy making processes. To develop a Future Generations Bill for the UK, policy makers could follow the model of the Well-being of Future Generations (Wales) Act 2015. In Wales having a clear mandate to consider future generations is empowering policy makers to take account of the long term a Commissioner is successfully championing future generations rights.

However to make this work policy makers would need to take into account:

- The lessons learned from various Offices for Future Generations around the globe, including the need for public support and consultation
- The specific lessons learned from the drafting and implementation of the Welsh Bill, as set out in the table above.
- The broader context of UK policy making compared to Welsh policy making, including the need to fairly cover devolved issues and the UK's responsibility for national risks including in environmental policy and managing national security risks.

Other options

Although this document focuses on a Future Generations Bill, there is much that could be done to improve how policy today considers future generations. For a breakdown of various policy options that could be put into place, see the table on p2 of [Policy making for the long-term: Literature and stakeholders](#).

Further research

Examining exactly where and why there are challenges to and successes in developing long-term policy making in the UK deserves further research. This will be the aim of the upcoming inquiry into long-term policy making by the APPG on Future Generations.

References

- [1] https://docs.google.com/document/d/1N__SUiMO4ihVH93dguHuVTd4WdiQX27wxSMRSnRrOFM/edit#bookmark=id.q14ksaf1syld
<http://futerroundtable.org/en/web/network-of-institutions-for-future-generations/roundtable>
- [2] <https://seneddhome.com/2019/05/useless-future-generations-act-defended-following-criticism-by-qc/>
- [3] Sophie Howe, Roundtable discussion on 4 June. See “190605 Minutes from 4 June roundtable” 13 or 14.
- [4] Jacob Ellis, Office of the Welsh Future Generation Commissioner, in conversation on 3 May 2019. See: “Wales Future Generations Commisioner _ Meeting Notes”
- [5] Lord Bethell
<https://hansard.parliament.uk/Lords/2019-06-20/debates/E11B7D05-3E68-4D7F-BF09-81E9312918C0/Policy-MakingFutureGenerations%E2%80%99Interests>
- [6] <https://ukhumanrightsblog.com/2019/06/24/m4-newport-relief-road-scrapped-environment-v-economics/> and
<https://www.bbc.co.uk/news/uk-wales-41558077>