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Protecting the interests of future generations

Victor Anderson

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Contact details

Victor Anderson, Centre for the Understanding of Sustainable Prosperity.
Email: victor.anderson@anglia.ac.uk

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Abstract

The UK political system is widely criticised for being too strongly focused on short-term considerations, at the expense of the long-term and therefore of members of future generations and concerns for long-term environmental sustainability. This working paper considers possible reforms to UK constitutional and political arrangements intended to help overcome this problem. In order to arrive at a set of recommendations, the paper first considers some relevant examples of arrangements elsewhere, including the Committee for the Future in the Finnish Parliament, the Ombudsman for Future Generations in Hungary, and the Wellbeing of Future Generations Act in Wales. The recommendations include the establishment of a House of Lords Committee for Future Generations, the reform of the National Infrastructure Commission, and the appointment of a UK Commissioner for Future Generations.

1 Mapping a constitutional home for the UK

Even the most perfect democracy can only represent the wishes of people currently alive. But what about members of future generations? Many decisions made now will affect them too – in some cases, far into the future.

How can the interests of members of future generations be safeguarded in political systems? This paper starts by briefly outlining some different ways in which this could be achieved through reforms to the UK political system, and then looks in more detail at examples of these types of options in practice in Finland, Hungary, Wales and elsewhere.

The primary choice about where to place explicit responsibility for future generations in the UK political system is between the three different traditional ‘branches of government’: the executive, legislature, and judiciary. An arrangement for safeguarding future generations could be included in any one of these three (or in all three of course).

1. Executive | For the Executive branch of government, we should start with an advisory body dedicated to safeguarding the interests of future generations. Taking the example from Wales (chapter 2), a UK wide Commissioner for Future Generations (chapter 2) could then perhaps be joined together with the existing Committee on Climate Change and the

Natural Capital Committee to provide a combined safeguarding system within government. There are issues about where it would feed into – perhaps directly to the Prime Minister would be best, or to a Cabinet Minister for the Future – and whether it would take up individual cases (as an Ombudsman traditionally does) or focus on policy issues (as the Sustainable Development Commission used to).

We will also have to tackle a set of issues around getting longer-term time horizons into key government processes and methods for decision-making, most importantly HM Treasury's *The Green Book*, which sets out the methodology for evaluating expenditure options; as well as economic forecasting by the Treasury and Office for Budget Responsibility.

It is also worth bearing in mind that there is already a government advisory body with a remit to think about energy, transport, waste, and water up to 2050: the National Infrastructure Commission (NIC). The NIC is not looking at things principally through a sustainability lens though, and in fact seems to have not even come to terms with the question of land take (competing uses for the same areas of land)¹

2. Legislature | Parliament could establish an advisory group, or set up a committee of its own members, to consider the implications for future generations of proposed legislation, and perhaps also to come up with its own proposals for new legislation.

One might argue that the House of Commons Environmental Audit Committee (EAC) is already set out to fulfil this function. However, its purpose to date is to generally scrutinise government policy rather than specific pieces of legislation. A new institution's agenda would either need to be clearly separated from that, or the EAC's remit should be widened.

Another, potentially more fruitful, route could be to establish a Committee for the Future in the House of Lords. Discussion about reform of the Upper House has always centred on its composition and whether it should be elected, but the debate could be shifted over to the question of the role and

¹ See for example National Infrastructure Commission: 'Economic Growth and Demand for Infrastructure Services' (2017): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/595990/2906219_NIC_Technical_Paper_Economic_Driver_v1_0A_WEBACCESSIBLE.PDF

function of the Lords.² It could be given particular responsibility for future generations, developing the aspect of its ethos around long-term continuity.

The international Oxford Martin Commission, which produced a report recommending various ways of counteracting short-termism in business and politics, included three members of the British House of Lords (Patten, Rees, Stern), who might perhaps provide the nucleus for a Lords Committee for the Future, even if initially only on an unofficial experimental basis.³

3. Judiciary | Another important consideration would be to make the safeguarding of future generations a clear principle in the legal system, by establishing either a body to advise the Supreme Court, or making it one of the main functions of the Supreme Court and other courts itself.

One option is to enable the Court – as in the USA – to strike down legislation; in our case: laws which it believes to be contrary to the interests of members of future generations. A more ‘moderate’ and ‘more British’ option, retaining parliamentary sovereignty, would be to require the Court to interpret laws to the maximum extent possible in a way which they believe is conducive to or compatible with the interests of future generations; and to recommend to Parliament changes in the law where they believe it to not be compatible. A model for this could be the operation of the Human Rights Act, which gives the courts an advisory role in relation to Parliament, and also requires the possibility of incompatibility with the Act to be considered when new legislation is being formulated by the Government.

2 Learning from practice

In considering these options for constitutional and political reform in the UK, it is useful to draw on evidence about the experience of these options in practice, for example in Finland, Hungary, and Wales.

2.1 Finland: Committee for the Future

Committees of parliaments have a ready-made position from which they can scrutinise government and influence legislation, without any special new

² Since the first draft of this paper, the Foundation for Democracy and Sustainable Development has taken this suggestion forward and submitted a proposal, formally endorsed by 33 peers. More details on the FSDS website: <http://www.fdsd.org/futgen-committee-hol/>

³ Oxford Martin Commission for Future Generations: ‘Now for the Long Term’ (Oxford Martin School 2013): oxfordmartin.ox.ac.uk/downloads/commission/Oxford_Martin_Now_for_the_Long_Term.pdf

type of machinery having to be set up. They therefore fit relatively easily into existing political structures.

Many parliaments have specialist environment committees, but this does not necessarily result in a cross-cutting sustainability perspective being applied across the full range of different departments and ministries. The UK House of Commons Environmental Audit Committee is an example of a committee with that sort of cross-cutting perspective and remit. Another example, to be discussed here, is the Committee for the Future in the Finnish Parliament. This committee is also cross-cutting, working across all policy areas from the perspective of sustainability, and also other long run considerations too.

Finnish Parliament and Political Culture

The Finnish Parliament (the Eduskunta) is a single-chamber 200-seat assembly, elected by proportional representation. There has been no election since Finland gained independence in 1917 in which a single party has won a majority in the Parliament. The formation of a government depends on someone being able to secure majority parliamentary support as Prime Minister, always in practice following inter-party negotiations about policy programmes and government positions. There is a separated elected President, with limited powers. 40% of members of the Parliament currently are women, the second-highest in the world (after Sweden).⁴

The Finnish Parliament has sixteen standing committees, which include the Committee for the Future. Most of these are committees dealing with a particular government department and its corresponding policy area.

The single-chamber nature of the Parliament simplifies the roles of the committees because there is no question of them needing to include representatives from two different parliamentary chambers in order to be effective, and no question of their work being duplicated or challenged by an equivalent or rival committee in another chamber.

The coalition dynamics in Finland, with different combinations of parties forming governments at different times, has created a long tradition of detailed cross-party working. There is also a tradition of National Income Policy Agreements, which are “social contract” (in UK 1970s terms) “social partner” agreements between trade unions, employers, and government,

⁴ Eduskunta Riksdagen: <https://www.eduskunta.fi/EN/tietoeduskunnasta/kirjasto/aineistot/yhteiskunta/womens-suffrage-110-years/Pages/women-as-members-of-parliament.aspx>

usually covering pensions, housing costs, and unemployment benefit as well as employee incomes.

Committee meetings in the Finnish Parliament are normally not open to the public, which must make it much easier for politicians to resist the temptation to dramatically clash with each other or overemphasise small disagreements.

All this raises the question of whether the apparent relative success of the Committee for the Future is due to a particularly unpolarised political culture, and therefore could not be replicated in countries where politics is far more polarised, such as the UK and USA.

Committee for the Future

The Finnish Parliamentary Committee for the Future (Finnish acronym: TVK) consists of 17 members of parliament. Its official remit is not principally focused on social and environmental sustainability, and in fact gives more attention to technology, but the Committee has a wide-ranging responsibility for thinking about the future and the long run, and this has inevitably included sustainability questions. Assessment of the implications of emerging technologies, for example in nanotechnology and biotechnology, remains an important part of its work.

The Committee prepares each time Parliament's response to the Government's official report on a major theme concerning the future, roughly every four years. Where other committees request it, it also provides opinions on key long-term issues that affect matters other committees are considering. It maintains a continuing interest in Russian politics, historically and geographically an important concern in Finland. It also continually reviews academic research and other relevant studies concerning the future. Most importantly, it produces reports on topics of its own choosing, which are then discussed in the Parliament. In autumn 2011 for example, the Committee selected 'sustainable growth', 'an inspired society', 'acquiring new knowledge', and 'can the welfare society endure?' as their main areas for study for 2011-14.⁵

⁵ Paula Tiihonen: A Committee for the Future (posted on World Future Council website 2014): <http://www.futurejustice.org/blog/guest-contribution/guest-article-a-committee-for-the-future/>; Finnish Parliament website page on the Committee for the Future: <https://www.eduskunta.fi/EN/lakiensaaminen/valiokunnat/tulevaisuusvaliokunta/Pages/default.aspx>

The Committee was established in 1993, following economic recession, as well as the 1992 Rio Earth Summit, the collapse of the Soviet Union, the independence of the Baltic states, and the decision for Finland to apply to join the EU – all of which made the future for Finland at that time particularly uncertain.

The TVK became a permanent standing committee of the Parliament in 2000. This was not a straightforward process: an account based on contact between Scottish and Finnish parliamentarians claimed: “This experiment was successful enough to prompt attempts through a private member’s bill to make the TVK a permanent part of the machinery. The proposal raised constitutional, procedural and policy problems. It was strenuously resisted at first by successive governments, and by other institutions that felt threatened by it.” The move was led by two MPs, one Green and one Conservative.⁶

The Committee receives advice from a *Forum of the Experienced and Wise*, a group of about 60 people retired from their main professions, which meets twice a year to input to the work of the TVK. There is also consultation with students, public meetings, and engagement through television programmes and the internet. The Committee has recently been seeking to further extend its links, particularly towards the scientific community, business, and at regional level across Finland.⁷

A former Vice-Chair of the Committee, Oras Tynkkynen, has written an insider’s account of the Committee’s work, highlighting a set of challenges for the Committee. These include its scant resources: a staff of only three, and a very limited budget. Ambitious MPs often do not consider the Committee important enough to be spending time on. The Committee’s influence is also limited by not having the scrutiny of legislation as part of its remit.⁸

An important strength of the Committee, however, is the way it brings together both technological and ecological considerations, which in most political systems are generally considered separately and from very different mindsets: technological optimism and ecological pessimism. In discussions

6 Brian Groombridge, ‘Parliament and the Future: Learning from Finland’ (2006): <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1467-923X.2006.00770.x>

7 Finland: The Committee for the Future (Austrian Academy of Sciences website accessed June 2016): <http://www.oeaw.ac.at/ita/fileadmin/epta/countryreport/finland.html>

8 Oras Tynkkynen, ‘Strengthening Futures thinking in Parliaments’, in E-Publica No. 5 (2015): <http://e-publica.pt/en/strengthening-futures-thinking-parliaments.html>

of the long-term, this tension between ‘optimists’ and ‘pessimists’ is often more important than party political differences. On the one side, there is an emphasis on, for example, the exciting potential of 3D printing, the internet of things, nanotechnology, and synthetic biology. On the other side, an emphasis on climate change and ecosystem decline. The future is most likely to reflect some combination of, and interaction between, these two types of trends, and the Committee is well-placed to address this complexity.

2.2 Scotland’s Futures Forum

The Committee for the Future in Finland has been an influence on debate in Scotland.⁹ In 2004 the Scottish Parliament convened a conference to discuss whether it should set up a similar Parliamentary Committee for the Future. Although it was decided not to, this conference and discussion around it led to the setting up of Scotland’s Futures Forum, which is linked to the Scottish Parliament, and has the Scottish Parliament’s Presiding Officer as the chair of its board. It is owned by the Scottish Parliamentary Corporate Body, the Parliament’s own legal entity separate from the Scottish Government, and it involves Members of the Scottish Parliament in its work.¹⁰

Although it explores many futures-oriented topics, organising talks, meetings, and research, it does not have a particular focus on ecological sustainability or technology assessment, and is therefore perhaps less well-placed than the Committee for the Future in Finland to provide a radical challenge to existing thinking. The Forum has chosen as its main topic for the Parliamentary session which began in May 2016, “The cultural base and strength of a civilised country; what are our aspirations for a civilized, cultural society in Scotland in 2030?”¹¹

2.3 German Advisory Council on Sustainable Development

In Germany there is a Parliamentary Advisory Council on Sustainable Development, which is intended to be an advocate for future generations, particularly as regards long-term ecological sustainability issues. A Bundestag resolution in February 2014 gave the Council the following tasks: (1) “parliamentary monitoring and support of the Federal Government’s National Sustainability Strategy, in particular in relation to continuing to

⁹ Brian Groombridge, ‘Parliament and the Future: Learning from Finland’ (posted on Scotland’s Futures Forum website, undated 2005?). Page 2.

¹⁰ Scotland’s Futures Forum website: <http://www.scotlandfutureforum.org/>

¹¹ Scotland’s Futures Forum: ‘A Guide and Legacy Report for the 2011-2016 Parliamentary Session’, Section 2: <https://slate.adobe.com/cp/6fofj/>

develop the indicators and objectives, setting and specification of measures and instruments to implement the sustainability strategy and dovetailing important policy approaches of relevance to sustainability”; (2) “parliamentary monitoring and support of the Federal Government’s sustainability policy at European level, in particular of the European Strategy for Sustainability”; and (3) “parliamentary monitoring and support of the Federal Government’s sustainability policy at the level of the United Nations, in particular the activities and measures as part of the Rio follow-up process.”¹²

According to information on the Bundestag website: “The Parliamentary Advisory Council on Sustainable Development ... is involved in the legislative process by way of providing expert opinions. It issues opinions on current and longer-term sustainable development topics. It pushes for change and progress and makes concrete proposals. It maintains contact to the relevant institutions on a federal, Länder [regional] and European level, and conducts dialogue with civil society.”¹³

The Council takes an independent and advisory view, but from a position embedded in the parliamentary and governmental processes of Germany. It has a specific focus on sustainable development, rather than a more wide-ranging ‘futures’ scope (as in Finland and Scotland). There is a separate German Council for Sustainable Development, outside parliament, consisting of stakeholder representatives.

2.4 Oxford Martin Commission for Future Generations

Another significant initiative in this field, although not officially formalised as in Finland, Scotland, and Germany, was the Oxford Martin Commission for Future Generations. The Commission was based in the UK but international in scope and membership, and very well-connected. It was chaired by Pascal Lamy, the former Director-General of the World Trade Organisation, and its members included Michelle Bachelet, former President of Chile, Trevor Manuel, Chair of the National Planning Commission of South Africa, Lord Nicholas Stern and Professor Amartya Sen.

¹² ‘Establishment of the Parliamentary Advisory Council on Sustainable Development’ (Bundestag 2014): http://www.bundestag.de/blob/286956/0c46e2e6e4ce2cac7d7422acd1675494/18_559-pdf-data.pdf

¹³ ‘Development of the Parliamentary Advisory Council on Sustainable Development’ (Bundestag 2015): http://www.bundestag.de/blob/378860/350210218804a74d3d68c931fb5ca9cd/18_development-data.pdf

In its report, published in October 2013, the Oxford Martin Commission presented an analysis of the existing barriers in the way of policies and decisions taking greater account of the long-term and the interests of future generations. There was also a series of recommendations, including the establishment of a world statistical agency ('Worldstat') to monitor key indicators, greater use of "independent institutions accountable to governments but able to operate across longer-term time horizons", an end to discounting of the future in cost-benefit analysis, and the removal of subsidies for fossil fuels.¹⁴

Unfortunately, the report did not make the impact it deserved. Its analysis and recommendations were sophisticated and complex, perhaps not sufficiently 'media-friendly', in as far as it didn't focus on one big memorable proposal. The Commission itself put far more resources into drawing up the report than it did into lobbying and campaigning for its recommendations to be taken up. However, the report remains an important resource for thinking about how parliaments and other decision-making bodies can best approach questions about the long-run future.

The report makes a point which is reinforced by the Finnish example. Advocating more use of independent institutions geared to the long-term, it says: "Cross-party consensus and support of the agenda and objective of such independent agencies is vital in order to secure their stability, longevity, impartiality and effectiveness."¹⁵

This may well be true, but it leaves a dilemma. Current party divisions often reflect real divisions in society (e.g. social class), and basic differences on major policy questions (e.g. free market versus state intervention). If institutions focused on the long-term and sustainability are only to be built on cross-party consensus, does that mean they can only flourish by avoiding these and other significant divisions and differences? In other words, do they have to avoid many of the really important questions?

2.5 Ombudpersons

The idea of an 'Ombudsman for Future Generations' is another way of approaching the task of increasing the influence of sustainability considerations in government decision-making.

¹⁴ Oxford Martin Commission for Future Generations: 'Now for the Long Term' (Oxford Martin School 2013): oxfordmartin.ox.ac.uk/downloads/commission/Oxford_Martin_Now_for_the_Long_Term.pdf

¹⁵ 'Now for the Long Term', page 58.

The most long-standing Ombudsman institution has existed in Sweden since 1809, and ‘Ombudsman’ is in fact a Swedish (also Danish and Norwegian) word. An Ombudsman is a state official, but at the same time independent of government, parliament, and judiciary, acting on behalf of citizens by taking up individual complaints. An Ombudsman has no decision-making power, but makes recommendations. An Ombudsman doesn’t carry out systematic inquiries into general policy issues as such, but individual cases may well lead to general recommendations for policy change. An Ombudsman is in a sense a representative of citizens but does not represent them through the electoral process.

In Sweden, an Ombudsman is elected by the Rikstag (parliament) for a four-year term, on a non-party basis, and there are currently four of them, two women and two men.¹⁶ The Swedish system is mainly based on taking up complaints from individuals, but an Ombudsman in Sweden can also take up individual cases on their own initiative. The principal focus of the Ombudsman’s investigations is on whether public bodies and officials have complied with the law and fulfilled their obligations.

In the UK, there is a similarly independent official, namely the Parliamentary and Health Service Ombudsman (PHSO), with a similar role, although in the UK system, cases cannot be sent directly to the Ombudsman, who only takes up cases referred to him or her by an MP. The focus is on ‘maladministration’, the failure to operate existing laws and procedures efficiently and fairly, rather than on policy questions.

The basic concept, and the Swedish and UK examples, cast doubt on whether ‘Ombudsman for Future Generations’ is an accurate or appropriate term for what the advocates of that idea are actually proposing. Members of future generations cannot of course bring individual complaints, and so the ‘Ombudsman’ obviously cannot carry out investigations initiated by them or directly on their behalf.

Another way of seeing the ‘Ombudsman for Future Generations’ proposal, rather than seeing it as advocating a form of Ombudsman in any precise sense, is seeing it as looking for a representative of a set of interests, and in the case of members of future generations, speaking up and acting for a group of people who cannot speak for themselves and are not directly represented through the electoral process. This is less like an Ombudsman

¹⁶ For details, please see the official Riksdagens Ombudsmän website: <https://www.io.se/en/About-IO/The-Ombudsmen/>

such as the PHSO and the Swedish example, and more like the role of the Official Solicitor to the Senior Courts in the UK, the executor of a will, or someone with the Power of Attorney, acting on behalf of others who are not speaking for themselves.

These are, however, still not accurate parallels, because an Ombudsman for Future Generations would be concerned with large-scale policy issues rather than individual cases. In Wales, where the UK has come closest to establishing an Ombudsman for Future Generations, the office created by the Future Generations Act has been given the more neutral term ‘Commissioner’, fitting the situation in Wales, where there were already Commissioners for Children, Older People, and the Welsh language.

Proposals for a Global Ombudsman for Future Generations

The most ambitious set of proposals for establishing an Ombudsman for Future Generations was focused on the UN Rio+20 sustainable development conference in 2012. The official preparatory process for the conference considered the idea of creating the post of an Ombudsman for Future Generations on a global basis, as an office within the United Nations. This could potentially have become an extremely important position with far-reaching influence.

The World Future Council, one of the organisations championing the proposal in the preparations for Rio+20, said on their website: “The Future Justice campaign focused on integrating intergenerational justice into the concrete outcomes of the Summit. Going into the conference the High-Level Representative for Sustainable Development and Future Generations remained one of the proposals on the table. Unfortunately, despite many vocal supporters among civil society and governments we did not see commitment to establish this institution.”¹⁷

The conference process turned down the proposal, but paragraph 86 of the outcome document from the conference (‘The Future We Want’) included the following sentence: “We will also consider the need for promoting intergenerational solidarity for the achievement of sustainable

¹⁷ <http://www.futurejustice.org/our-work/the-rio20-summit>; See also Catherine Pearce: ‘Ombudspersons for Future Generations’ (World Future Council 2012): sustainabledevelopment.un.org/content/documents/15664WFC_Ombudsperson_proposal_slides.pdf

development, taking into account the needs of future generations, including by inviting the Secretary General to present a report on this issue.”¹⁸

The UN Secretary-General did in fact report back on this question the following year. After usefully summarising some relevant information, the report simply set out a list of options, and made no definite recommendation. These options included (as well as the Ombudsman) the Secretary-General appointing a Special Envoy for Future Generations, and simply for future generations to be an agenda item for discussion in some future UN meetings.¹⁹

These options were discussed in a session on future generations at a meeting of the UN High-Level Political Forum (HLPF) in 2014. Despite some support for the Ombudsman proposal, no decision was made to establish such a post. Not all is lost though, the proposal might be brought back to a future meeting of the HLPF, the principal location for sustainable development discussions in the UN.

The main focus for UN activity on sustainable development now is the 17 Sustainable Development Goals, intended as shared goals for the world community up to 2030. These could perhaps be seen as putting into practical form the changes required to meet the needs of future generations, making an Ombudsman or similar institution unnecessary. Alternatively, it may be from out of discussions about monitoring and co-ordinating the implementation of the SDGs that such a new institution will emerge.²⁰

National Arrangements

The UN Secretary-General’s report in 2013 mentioned various arrangements at national level intended to protect the interests of future generations. These included:

- The Parliamentary Commissioner for the Environment in New Zealand, established in 1986, with an advisory role including environmental issues with long-run sustainability implications for future generations.

¹⁸ Sustainable Development Knowledge Platform (text from United Nations 2012):

<https://sustainabledevelopment.un.org/futurewewant.html>

¹⁹ ‘Intergenerational Solidarity and the Needs of Future Generations’ (United Nations 2013):

http://www.un.org/ga/search/view_doc.asp?symbol=A/68/322&Lang=E

²⁰ Sustainable Development Goals (Sustainable Development Knowledge Platform, text from United Nations 2015). <https://sustainabledevelopment.un.org/?menu=1300>

- The Commissioner of the Environment and Sustainable Development in Canada, established in 1995. The Commissioner has principally an audit function, and is located within the Office of the Auditor-General.
- The Commission for Future Generations in Israel, established in 2001 and disbanded (likely for funding reasons) in 2007. The Commission had investigative and advisory powers, primarily focused on considering the potential impact of proposed legislation on future generations.
- The Parliamentary Commissioner for Future Generations in Hungary, established in 2008 (considered in more detail below).

The report also mentions other countries, such as Germany and Finland, where there are parliamentary committees on the future or on sustainable development.

Hungarian Parliamentary Commissioner for Future Generations

In 2007 the Hungarian Parliament established the post of the Parliamentary Commissioner for Future Generations, following a campaign led by Protect the Future, a green NGO. Sandor Fülöp took up that position in 2008. There was already a template for how such a Commissioner should operate, because of the existence in Hungary of equivalent Commissioners for civil rights, data protection and freedom of information, and national ethnic minority rights. The essential role of the Commissioner was to safeguard rights guaranteed to citizens (in this case, future citizens) under the Hungarian Constitution.

Paragraph 1 of Article P of the current version of the Constitution (‘The Fundamental Law of Hungary’) states: “Natural resources, in particular arable land, forests and the reserves of water, biodiversity, in particular native plant and animal species, as well as cultural assets form the common heritage of the nation; it shall be the obligation of the State and everyone to protect and maintain them, and to preserve them for future generations.”²¹

This is an interesting formulation because it is not a guarantee of individual rights, of the sort more familiar in constitutions, but a statement about “common heritage” and resources held in common. An emphasis on individual rights would be problematic in the context of unborn future generations, in which there are currently no identifiable individuals,

²¹ ‘The Fundamental Law of Hungary’ (Hungarian Constitution). Text on the website of the Office of the President of the Republic of Hungary: http://www.keh.hu/the_fundamental_law/1536-The_fundamental_law_of_Hungary*&pnr=3

whereas collective rights and common heritage can easily be imagined as belonging to a whole generation or set of generations. The wording can also be seen as being in tune with a conservative conception of national heritage, at the same time as a ‘progressive’ concern with future rights.

Following the overwhelming election victory of the Fidesz party in 2010 and the rewriting of the Hungarian Constitution in 2011, three of these Commissioners (excluding data protection and freedom of information) were combined into a new position of Commissioner for Fundamental Rights, who took office in January 2012. The new Commissioner has two deputies, one of whom, currently Marcel Szabó, has responsibility for future generations. He has less staff than his predecessor and more work to be done in sifting through individual complaints (previously carried out by staff in the courts), and is widely seen to have less political independence.²²

Although the creation of the post of Parliamentary Commissioner for Future Generations has been described as a ground-breaking and agenda-setting move, in fact the post was only in operation for less than four years. This short life is perhaps symptomatic of a growing authoritarianism in the Hungarian political system.²³ However the imaginative nature of the post has ensured that the idea of it has had a much longer-lasting influence internationally.

The main responsibilities of the Commissioner (often referred to as an ‘Ombudsman’) for Future Generations were: to investigate individual complaints, to provide advice about new legislation, and to carry out research and strategy development. The Deputy Commissioner has inherited these responsibilities.

In his December 2010 interview with the ‘Solutions’ website, the previous Commissioner Sandor Fülöp outlined what he regarded as the two largest issues he had been concerned with. One was his opposition, on environmental health grounds, to the planned building of a new military radar station, which had involved him in successfully opposing the Hungarian Ministry of Defence in a court case. The other was opposition to a plan to build a massive straw-fired power plant, potentially combined with energy-grass production, which would have involved a great deal of lorry

²² Isabelle Merminod and Tim Baster: The Hungarian Ombudsman for Future Generations: An update for the Alliance for Future Generations (2011): <http://www.allianceforfuturegenerations.org/wp-content/uploads/2012/01/Update-for-the-Alliance-Dec-2012.pdf>

²³ See for example Kim Lane Scheppele, ‘Hungary and the End of Politics’, in ‘the Nation’ 6.5.14: <http://www.thenation.com/article/hungary-and-end-politics/>

transportation and change to a heritage landscape. Although it was not actually defeated in court, the plan appears to have been dropped.²⁴

The Commissioner organised training sessions for judges in how to take into account the interests of future generations. The Commission staff worked as a think-tank on some issues, such as the development of alternative indicators to GDP. They also tackled the problem of the unplanned sprawl of some urban areas in Hungary.²⁵

The current Deputy Commissioner Marcel Szabó has stated that, whilst his focus is primarily on environmental concerns, his agenda also concerns “the protection of cultural heritage and the investigation of bioethical concerns. For example, one of the latest activities of the Green Ombudsman centres around the issue of the fundamental rights concerns of the use of human embryos and fetal tissue for product testing and manufacturing in the area of foodstuffs and cosmetics.”²⁶ Similarly, with regard to personal agenda setting, the previous Commissioner has referred in an interview to his work to protect Jewish heritage buildings in Hungary.²⁷

These examples draw attention to the fact that ‘the interests of future generations’ may be interpreted in many different ways, and do not automatically imply to everyone who uses the term an overriding concern with ecological sustainability. A real worry here would be that the term could be ideologically construed, for example, as being about the long-run maintenance of economic growth, national security, the expansion of transport and energy infrastructure, conservation of buildings or restrictions on abortion.

This implies a need for three stages in any argument for a sustainability-focused Ombudsman for Future Generations: (1) arguing for some representation in a political system for the interests of future generations; (2) arguing that this representation should take the form of an Ombudsman or Commissioner; and (3) arguing that ecological sustainability should be a primary consideration in representing those interests. It is possible to imagine institutions based on (1) and (2) but rejecting (3).

²⁴ Interview with Sandor Fülöp on Solutions website (posted 2010): thesolutionsjournal.com/node/817

²⁵ Talk by Sandor Fülöp to Foundation for Democracy & Sustainable Development meeting (supported by CUSP and the Centre for the Study of Democracy at the University of Westminster), 11.4.17.

²⁶ Marcel Szabó, on World Future Council website (posted 2013): <http://www.futurejustice.org/blog/guest-contribution/an-example-guest-post/>

²⁷ see note 19

How could an Ombudsman for Future Generations work in the UK?

The establishment of an Ombudsman or Commissioner for Future Generations is one possible way of strengthening the position of future generations within the UK political system. Other possibilities were outlined at the beginning of this working paper.

Focusing specifically on the Ombudsman/Commissioner approach, there are three main options as to how this might work –

(a) Although the UK lacks a written constitution which might include rights for the Commissioner to uphold (as in the Hungarian system), and although international human rights conventions the UK has signed up to do not include the rights of future generations or reference to environmental sustainability, there has been much discussion of the idea of a British Bill of Rights.²⁸ This could be worded to include rights for future generations, and it would be possible to appoint a Commissioner as part of the machinery for the enforcement of a new British Human Rights Act. This would link the Commissioner to the judiciary, which can be expected to hold most of the responsibility for enforcement.

However, this option is problematic unless the rights of future generations are defined fairly precisely, for example in terms of various environmental standards concerning air and water quality. Without this, it would be possible for a Commissioner to express views but there would be a lack of anything that could be enforced through the courts, except perhaps for an obligation on public authorities to go through a process of considering the interests of future generations. It is difficult to see how this option could work very effectively.

(b) A Commissioner could be established on a statutory basis by Act of Parliament, similar to many other non-departmental public bodies (e.g. the Environment Agency or the Equality and Human Rights Commission). This would give the Office of the Commissioner a role something like the UK Sustainable Development Commission,²⁹ giving advice to government departments, or the Wales Commissioner for Future Generations. The Equality and Human Rights Commission has the power to bring forward

²⁸ See for example Louise Smith: 'A UK Bill of Rights?' (2017) <http://www.abouthumanrights.co.uk/uk-bill-rights.html>

²⁹ Established in 2000, the SDC has worked to help decision makers and advisors embed sustainable development as the operating system of choice in the four Governments of the UK. The commission ceased its operation in March 2011, two years after its ground-breaking report 'Prosperity Without Growth' was first published: <http://www.sd-commission.org.uk/>

court cases under anti-discrimination legislation, but the rights being enforced here are relatively precisely defined (e.g. equal pay for equal work), which is unlikely to be the case with the rights of future generations.

This suggests a potential weakness in the Ombudsman concept. If Government policy is basically sound, it is reasonable to appoint an Ombudsman to ensure that it is administered effectively and fairly, which is what the current UK Parliamentary and Health Service Ombudsman does. However, the issue of the rights of future generations is very wide-ranging in its implications, and it seems unlikely that what is required is simply the more thorough enforcement of existing law and policy. In this sense, the idea of an advisory Commission (which could be led by a 'Commissioner') is more closely aligned to what is needed than is the idea of a Commissioner with a limited Ombudsman role.

(c) A third option would be to give a Commissioner a role within the legislative process. For example, all draft legislation, and bills introduced into Parliament when there has not a corresponding draft bill, could be referred to the Commissioner for comment and advice. The Commissioner's opinion could then be sent to Parliament as an input to its scrutiny of the legislation, in the same sort of way as any select committee recommendations. The Commissioner might also be given the right to make suggestions for the content of new legislation.

2.6 Wales: Devolution Legislation

Although the UK itself does not have a written constitution, the devolution legislation introduced when Tony Blair was Prime Minister (and amended since) has created something very like written constitutions for parts of the UK. This legislation established the National Assembly for Wales, re-established a Parliament for Scotland, and began the process of setting up regional assemblies in England, although in fact – following a referendum defeat for devolution proposals for North-East England – only one of these was set up, for Greater London. Changes were also made to the devolution arrangements in Northern Ireland. All of this legislation was written at a time when sustainability and sustainable development were explicitly on the political agenda.

The National Assembly for Wales was established by the Government of Wales Act 1998,³⁰ and began in 1999. Its powers were extended, and its structure changed, by the Government of Wales Act 2006.³¹ Further changes were made by the Wales Act 2014.³²

The Assembly has a series of powers which have been devolved to it by the United Kingdom Parliament. The 2006 Act listed twenty areas of competence in which the National Assembly can create legislation. As with Scotland, its powers do not cover foreign policy or most economic policy.

The 1998 Act included a section on sustainable development, Section 121:

“(1) The Assembly shall make a scheme setting out how it proposes, in the exercise of its functions, to promote sustainable development. (2) The Assembly shall keep the scheme under review and in the year following each ordinary election (after the first) shall consider whether it should be remade or revised. ... (6) After each financial year the Assembly shall publish a report of how its proposals as set out in the scheme were implemented in that financial year. (7) In the year following each ordinary election (after the first) the Assembly shall publish a report containing an assessment of how effective its proposals (as set out in the scheme and implemented) have been in promoting sustainable development.”

Section 79 of the 2006 Act essentially repeats these provisions. Paragraph 8 of Schedule 2 refers to the Assembly Commission, which acts on behalf of the Assembly as regards its own staffing and operations (separately from the Welsh Government). It is required to have due regard to three principles: equality of opportunity, equality for the Welsh language, and sustainable development. The 2014 Act, which has a much more limited scope, does not include a reference to sustainability or sustainable development.

The duties in the 2000 and 2006 Acts have been strongly reinforced by the Assembly’s own legislation, the Well-Being of Future Generations (Wales) Act 2015. This Act was built on the sustainable development provisions in the 1998 and 2006 devolution legislation.

The Welsh Assembly and Sustainable Development in Practice

The case of Wales is particularly interesting because the treatment of sustainable development by the National Assembly and Welsh Government

³⁰ Government of Wales Act 1998: www.legislation.gov.uk/ukpga/1998/38/contents

³¹ Government of Wales Act 2006: <https://www.legislation.gov.uk/ukpga/2006/32/contents>

³² Wales Act 2014: <http://www.legislation.gov.uk/ukpga/2014/29/contents/enacted>

has undergone a definite process of evolution, exemplifying and partially overcoming various types of limitation at each stage.

Section 121 of the 1998 Act led to a series of sustainable development schemes and action plans. Section 121 appeared ambitious at the time, but on the basis of using that as the starting point, and partly through the extensive stakeholder consultation which developed from it, various proposals were made for strengthening the arrangements for sustainable development in Wales.³³

The problems with the various schemes and action plans in Wales were not so much about what they said or didn't say, but that there were simultaneously a number of other, and to some extent competing, strategies in operation. There were strategies for economic development and spatial development, and there were also strategies for a variety of sectors and policy fields. There was a tendency for different politicians to try to ensure priority for the strategy they had drawn up or become responsible for, creating some confusion.

The 2007 Assembly elections produced no overall majority for any party. This led to a coalition government between the Labour Party and Plaid Cymru, based on an agreed programme, 'One Wales'.³⁴ The 2009 Sustainable Development Scheme, 'One Wales: One Planet' then built on this, setting out a more ambitious approach than there had been with previous administrations.³⁵ Despite that, there remained criticisms around too great a reliance on voluntary action, and therefore an argument that there was still a need for new legislation.³⁶

Another influence on this debate was the Westminster Government's decision to abolish the UK Sustainable Development Commission (SDC) in

³³ See for example: 'Sustainable development in Wales', Paul Williams and Alan Thomas (Joseph Rowntree Foundation 2004): <https://www.jrf.org.uk/file/35996/download?token=by8Td3cn>

³⁴ Labour/Plaid Cymru agreement: 'One Wales' (2007): <http://www.manifesto.com/wp-content/uploads/2014/07/onewalese.pdf>

³⁵ 'One Wales: One Planet' (Welsh Assembly Government 2009): <http://gov.wales/docs/desh/publications/090521susdev1wales1planeten.pdf>

³⁶ See Alan Netherwood: 'Progress in embedding the 'One Planet' aspiration in Welsh Government' (WWF Cymru 2011): http://assets.wwf.org.uk/downloads/main_report_progress_in_embedding_the_one_planet_aspiration_in_welsh_government.pdf; See also 'Sustainable development and business decision making in the Wales Assembly Government' (Wales Audit Office 2010): https://www.wao.gov.uk/system/files/publications/Sustainable_development_and_business_decision_making_in_the_Welsh_Assembly_Government_English_2010.pdf; Wales' Central Organising Principle - Legislating for Sustainable Development - edited by Anna Nicholl and John Osmond (Institute of Welsh Affairs 2012): <http://www.iwa.org.uk/en/publications/view/215> (£7.50 to download)

2010. News of this move increased support for establishing a ‘sustainable development watchdog’ for Wales. Jane Davidson, Minister for the Environment, Sustainability and Housing in the Welsh Government at the time, set out some principles for such a watchdog and secured inclusion of a commitment to create it, in the Labour Party manifesto for the Assembly election in 2011.³⁷ This watchdog eventually became the post of Commissioner for Future Generations.

Testing of public opinion, in surveys and in meetings with interested organisations, led politicians to the view that the term “sustainable development” was a problem, principally because they found that most people lacked any idea of what it means, but at the same time there was a widely shared view in Wales that future generations and their wellbeing matters enormously. Eventually it was decided to remove “sustainable development” from the title of the new ‘watchdog’ legislation, and instead to describe it as the Well-being of Future Generations Bill. The content of the Bill was, however, essentially unchanged, and has sustainable development as its central concept.

The Well-Being of Future Generations Act

The Well-Being of Future Generations (Wales) Act 2015 is far-reaching in its implications, although at this stage it is impossible to know how effectively and fully it will be resourced and implemented.

The wording in the Act has a focus on sustainable development, using the phrase “the well-being of future generations” as its means of explaining what the term “sustainable development” means. This in turn is based on the Brundtland definition of “sustainable development”: development that “meets the needs of the present without compromising the ability of future generations to meet their own needs.”³⁸

The Act imposes duties on all public bodies in Wales, including all local authorities, NHS trusts, and Wales national-level bodies dealing with arts, sports, and natural resources (a list is given in Section 6). Section 3 says: “The action a public body takes in carrying out sustainable development must include: (a) setting and publishing objectives (“well-being objectives”) that are designed to maximise its contribution to achieving each of the well-

³⁷ Welsh Labour Manifesto 2011, page 92: welshlabour.s3.amazonaws.com/welsh-labour-manifesto.pdf

³⁸ World Commission on Environment and Development: ‘Our Common Future’ [The Brundtland Report], Oxford University Press 1987. Page 8.

being goals, and (b) taking all reasonable steps (in exercising its functions) to meet those objectives.”

Section 4 sets out and defines these goals. These are: “a prosperous Wales”, “a resilient Wales”, “a healthier Wales”, “a more equal Wales”, “a Wales of cohesive communities”, “A Wales of vibrant culture and thriving Welsh language”, and “a globally responsible Wales.” The description of “prosperous” includes: “An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change).” A “resilient Wales” is defined as: “A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).” Section 10 requires the Welsh Government to publish a set of indicators “for the purpose of measuring progress towards the achievement of the well-being goals.”

The official guidance on implementation of the Act sets out “five ways of working that public bodies are required to take into account when applying sustainable development. These are: • Looking to the long term so that we do not compromise the ability of future generations to meet their own needs; • Taking an integrated approach so that public bodies look at all the well-being goals in deciding on their well-being objectives; • Involving a diversity of the population in the decisions that affect them; • Working with others in a collaborative way to find shared sustainable solutions; • Understanding the root causes of issues to prevent them from occurring.”³⁹

Section 11 requires the Welsh Government to draw up, every 5 years, a future trends report, providing information relevant for public bodies in their development of plans to achieve the well-being of future generations. It also puts into legislation (for the first time in the UK) an obligation to take account of action taken by the United Nations in relation to the Sustainable Development Goals. Section 12 gives Welsh Ministers the duty to provide an annual progress report on well-being, and Section 13 gives a similar duty to other public bodies in Wales. Section 15 requires the Auditor General for Wales to scrutinise performance.

³⁹ Welsh Government (2016): ‘Shared Purpose: Shared Future’, Core Guidance Para 24: <http://gov.wales/docs/desh/publications/160915-spsf-1-core-guidance-en.PDF>

Welsh Commissioner for Future Generations

Section 17 establishes a Future Generations Commissioner for Wales. According to Section 18, the Commissioner has: (a) to promote the sustainable development principle, in particular to— (i) act as a guardian of the ability of future generations to meet their needs, and (ii) encourage public bodies to take greater account of the long-term impact of the things that they do, and (b) for that purpose to monitor and assess the extent to which well-being objectives set by public bodies are being met.”

Wales already had a Children’s Commissioner, a Commissioner for Older People, and a Welsh Language Commissioner. These have to a large extent provided an organisational template for the role and activities of the new Commissioner. However, there is a key difference: the other commissioners have a well-defined constituency of people to represent. Members of future generations do not only not currently exist, but their interests are harder to define than those of children, old people, or speakers or supporters of the Welsh language.

The Commissioner for Future Generations is to provide advice or assistance to bodies with duties under the Act, and “to any other person who the Commissioner considers is taking (or wishes to take) steps that may contribute to the achievement of the well-being goal.” This presumably includes private sector business. The Commissioner may also carry out reviews “into the extent to which a public body is safeguarding the ability of future generations to meet their needs by taking account of the long-term impact of things the body does...” (Section 20) These reviews may lead to recommendations, and Section 22 creates a presumption that public bodies should follow these. Section 23 requires the Commissioner to draw up, every five years, reports “containing the Commissioner’s assessment of the improvements public bodies should make in order to set and meet well-being objectives in accordance with the sustainable development principle.”

Section 29 establishes a set of new public bodies, the public services boards. There is to be one for each local authority area, consisting of representatives of the local authority and other organisations. Section 36 gives these boards a “well-being duty” “to improve the economic, social, environmental and cultural well-being of its area by contributing to the achievement of the well-being goals.” In order to do so, (according to Section 39) they are to draw up local well-being plans and must seek the advice of the Commissioner for Future Generations in doing so (section 42).

Implementation of the Future Generations Act

The Act is relatively new. Much of the Commissioner's time so far has been spent recruiting staff, establishing an office, and meeting people in a wide range of organisations potentially affected by the Act. It is far too early to tell how successful or effective the Act is going to be. However there have been some major grounds for concern.

One concern early on was on the question of the political independence of the first Commissioner, Sophie Howe. Her appointment was a surprise, given that her background was not in sustainability but in Labour Party activism. However, concern on this score has been reduced, partly through Ms Howe's extensive round of meetings and consultation, and also through the objection she lodged, on behalf of future generations, to the Welsh Government's plan to build a 'relief road' for the M4 through the Gwent Levels countryside.⁴⁰

The well-being duty on public bodies is supposed to shape budget-making and other planning processes. However, when Jane Hutt, Wales Finance Minister, was questioned in an Assembly committee about how the Future Generations Act had impacted on the budget process she had just recently led, her answers cast doubt on whether the process had really been any different at all from how it had been in previous years, before the Act.⁴¹ There was no sign that the Act had been reflected in the way in which cost-benefit analysis appraisals are carried out to evaluate the Welsh Government's expenditure options, even though increased concern for the interests of members of future generations clearly implies a reduction in the discount rate used in such appraisals.

The same types of problem may well occur in the case of other public bodies and other processes. This is despite the Welsh Government's draft official guidance to local authorities and other public bodies on the implementation of the Act (echoed in the finalised version). This said: "Therefore sustainable development is a way of doing things rather than an end in itself. The Act makes it the core principle that guides how a public body operates. Carrying out sustainable development does not mean that it is an 'add-on'.

⁴⁰ 'Full Proof of Evidence of the Future Generations Commissioner for Wales for the Public Local Inquiry into the M4 Corridor around Newport' (2017) <http://bailey.persona-pi.com/Public-Inquiries/M4-Newport/Third%20Parties/M4%20-%20Proofs/Future%20Generations%20Commissioner/17%2002%2007%20Full%20Proof%20of%20Evidence%20-%20FINAL%20version.pdf>

⁴¹ See question from Alun Ffred Jones at 7.46 mins, and answers from Jane Hutt: Senedd.tv - Archive - Y Pwyllgor Cyllid – 20.01.16.

It is how you best make sense of the responsibilities you hold.”⁴² “It is fundamentally important that the requirements of the Act are not seen as ‘an additional layer’ to existing activity. For example, the setting of well-being objectives should be the primary way in which a public body sets priorities; it should not take place in addition to an existing process.”⁴³ “In order for public bodies to effectively carry out sustainable development the requirements of the Act should be embedded within existing corporate processes ... The setting of well-being objectives should take place through a corporate planning process and be reflected in a corporate plan (or equivalent).”⁴⁴

Probably the most important problems for the Act’s implementation are, however, the all too familiar ones of resources and the relationship between sustainability and economic policy. Despite its different political complexion, the Welsh Government is to a large extent compelled to follow the public expenditure policies of the UK Government in Westminster, because the money allocated to Wales from the UK Exchequer is dependent, through the Barnett Formula⁴⁵, on the amounts allocated to the departments in Whitehall.

The consequence of this for the Future Generations Act is the contrast it sets up between the ambition and idealism of the Act, with the far-reaching legal duties placed on all public bodies in Wales, and on the other hand the severely limited resources which those bodies have available to them. The danger is of course that this will result in purely tokenistic or superficial implementation of the Act, with a great deal of “repackaging” and “rebadging” of what these public bodies would have been doing anyway. The implementation of the Act in practice may turn out to be far less ambitious and innovative than the Act itself is.⁴⁶

⁴² Welsh Government (2015): ‘Shared Purpose: Shared Future’, [Draft] Core Guidance Para 7. See also slightly different wording in the finalised version of the Guidance (2016): <http://gov.wales/docs/desh/publications/160915-spsf-1-core-guidance-en.PDF>

⁴³ Welsh Government (2015): ‘Shared Purpose: Shared Future’, [Draft] Core Guidance Para 22.

⁴⁴ Welsh Government (2015): ‘Shared Purpose: Shared Future’, [Draft] Core Guidance Para 23.

⁴⁵ A briefing by the House of Commons Library from January 2018 looks at how the Barnett formula works and includes a brief summary of the debate surrounding the formula:

<https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7386>

⁴⁶ For a positive early example of what is involved in the work of the new Public Service Boards, see ‘Our Monmouthshire’ (Monmouthshire PSB 2017) monmouthshire.gov.uk/our-monmouthshire; Also ‘Cwm Taf Well-being Assessment’ (Cwm Taf PSB 2017) ourcwmtaf.wales/cwm-taf-wellbeing-assessment; The Commissioner’s own draft plan for work on implementation was set out in Future Generations Commissioner for Wales (2017): ‘Draft Strategic Plan’: <https://futuregenerations.wales/wp-content/uploads/2017/02/Draft-Strategic-Plan-ENG-1.pdf>

Economic development is of course a major concern for the Welsh Assembly and other public bodies in Wales, and this has often been held to be in conflict with sustainability considerations. The Act might be used ‘negatively’ to deny public support and money for some businesses and economic activity held to be contrary to the interests of future generations (e.g. perhaps the nuclear industry), as well as ‘positively’ to encourage green technology firms to Wales on the basis of a political and legal climate favourable to them.

It is important to note, however, that the successful implementation of the Act will not depend entirely on the Commissioner and the various public bodies with obligations under the Act. The Act can be used by NGOs and others to challenge, and achieve reviews and potentially rejections, of decisions and plans by public bodies, as for example in the case of the plan to put a motorway extension through the Gwent Levels. Aligning public sector procurement policies with the Act is likely to have a major impact on the private sector. There is also a requirement in the Act for the Wales Audit Office to independently audit the performance of public bodies in terms of the duties the Act gives them. There is no example of this so far, but such audits will provide an important indication as to the success of the Wales Future Generations Act in practice.

3 Future UK Reforms: Recommendations

As the above explorations show, there is no ‘magic silver bullet’ for the problem of how to represent the interests of members of future generations in the UK political system. The success of any proposals depends above all on the willingness of members of current generations to take the interests of those currently unborn into account. Also, it can be a mistake to simply try to copy what has worked in one national context over into a very different context. However, there are some proposals for UK reform that are likely to be effective, for example⁴⁷ -

- **The House of Lords should establish a Committee for Future Generations**, concerned with the long-term implications of policy issues. It should operate as a select committee but give more attention

⁴⁷ There is further material on protecting the interests of future generations on the websites of: All-Party Parliamentary Group for Future Generations: www.appgfuturegenerations.com; Foundation for Democracy and Sustainable Development: www.fdsd.org; See also Natalie Jones, Mark O’Brien, Thomas Ryan: ‘Representation of Future Generations in United Kingdom Policy-Making’, in *Futures* (in press February 2018).

than select committees normally do to current and planned legislation. It would make recommendations rather than have its own decision-making powers. As a part of a wider reform of the Upper House, the Lords ought to be explicitly given a particular responsibility for considering questions in a long-term context.

- **There should also be statutory duties on ministers, and public bodies generally**, to consider and report on the implications of policy options for the interests of members of future generations. This should be reflected in economic methodologies for assessing options, e.g. through reducing the discount rate used in the Treasury Green Book.
- **The National Infrastructure Commission should be reformed.** The Commission is one of the few parts of the current political system at a UK level which already has a clear remit for thinking long-term. However, its publications so far indicate a skew towards facilitating and maximising economic growth, unbalanced by concerns about the social distribution of benefits from infrastructure, or about its environmental impacts (e.g. on land use). The Commission, which reports in to the Treasury, should be re-established on a more inclusive and holistic basis.⁴⁸
- **The new Environmental Watchdog should have a duty to consider the interests of future generations.** The Government has announced that, as part of Brexit preparations, there is soon to be a consultation process about the establishment of a new ‘environmental watchdog’, which would replace the role of the European Commission and European Court of Justice in ensuring compliance with environmental standards, for example on air quality. The new body should also have a policy advice role and be required to uphold the EU’s Environmental Principles, such as the precautionary principle (EU laws are being transferred into UK law, but Principles so far are not) and the interests of members of future generations.
- **A UK Commissioner for Future Generations should be established.** The Commissioner would scrutinise legislation, government policy, and actions from the perspective of the interests of members of future generations.

⁴⁸ See CUSP evidence to National Infrastructure Commission consultation on its methodology for carrying out a National Infrastructure Assessment (July 2016): cusp.ac.uk/wp-content/uploads/CUSP-NIA-25.7.16.pdf