

WELLBEING OF FUTURE GENERATIONS BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Wellbeing of Future Generations Bill [HL] as introduced in the House of Lords on 20 May 2021 (HL Bill 6).

- These Explanatory Notes have been prepared by Lord Bird in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The first part of this Bill establishes a set of national wellbeing goals, formulated by the Secretary of State and confirmed via a public consultation. It places a duty on public bodies and government departments to set objectives in line with these goals, whilst demonstrating certain 'ways of working'; these are a consideration for the long-term, prevention, planning for risk, collaboration, integration and involvement. Decisions are to be accompanied by future generations impact assessments to ensure longer-term unintended consequences on national wellbeing are mitigated.
- 2 The second part of this Bill focuses on improving planning and spending within Government. The Bill establishes a futures and forecasting report which assesses the risks and trends, for at least the forthcoming 25 years, and lays out detailed plans on mitigating these risks; the Bill makes provision that when doing so, the views of various relevant groups must be accounted for, including the UK and UN Climate Change Committees and the views of 11-25 year olds on wellbeing. This is to improve the United Kingdom's preparedness for existential risk. Currently, the Cabinet Office's National Risk Register only accounts for two years into the future. The Bill also requires departments to categorise their spending into preventative tiers to encourage public bodies to think about investing more money in the short-term to make savings in the long-term, encouraging a pivot towards prevention rather than immediate relief.
- 3 To improve transparency and accountability within Government, the Bill allocates powers to the head of the National Audit Office to conduct examinations on public bodies in order to assess whether a body has acted in accordance with its wellbeing duties. The Bill extends the Office for Budget Responsibility's responsibilities to examine the extent to which progress is being made towards the national indicators and subsequent milestones. This, combined with the futures and forecasting report, is used to produce advice to the Treasury to ensure long-term fiscal risks are mitigated. A Joint Select Committee on Future Generations is also established by the Bill to ensure any relevant incoming legislation can be reviewed and amendments suggested. The Bill makes provision for there to be a minister in each Government department in charge of safeguarding future generations' interests. Their role is to promote the wellbeing goals when formulating policy and, through observing how the Bill is applied within departments, they can also feed back into how the national indicators should be adapted (after consulting with the Joint Committee and the Commission). A Future Generations Commission is to be established, consisting of an expert from each country of the United Kingdom and a young person from each devolved country to improve understanding of the future generations principle amongst public bodies and the public.

Policy background

- 4 Academics have argued that favouring the current generation is a particular feature of democracy as it responds to the current generation's demands, which may lead to future needs being neglected (Dasgupta & Maskin, [2005](#)).¹
- 5 Laws created today will bind future generations, yet those generations have not had a say in creating them. In certain instances, most notably the climate, this can affect the quality of life of future generations. There is therefore a case to be made for representing future generations within policymaking.

¹ Dasgupta and Maskin, Uncertainty and Hyperbolic Discounting (2005)
<https://www.aeaweb.org/articles?id=10.1257/0002828054825637>

The representation of future generations in policymaking

- 6 Harvard academic Professor Dennis Thompson has argued that future citizens need representation within policymaking. Professor Thompson has refuted several claims to the contrary, including that natural relationships would ensure future generations' interests would be protected due to familial ties. He explained that these relationships become weaker, the further to the future one looks, and many policies have their most significant effects a century or more later. Furthermore, this theory relies on all voters having children which is increasingly not the case, with fertility rates within the UK on a downward trend and currently at historically low levels (ONS, [2020](#)).²
- 7 Thompson also disputed that future generations need not be protected as they reap knowledge and capital handed down from past generations, explaining that at least environmentally, they are likely to face large, irreversible harms. For example, WWF's Living Planet report ([2018](#))³ showed that the actions from past generations between 1970 and 2014 have wiped out 60% of all animal populations.
- 8 Lastly, Thompson considered the "argument from uncertainty", which states that it would be desirable to give weight to the needs of future generations, but only if we knew what these needs would be. As these are uncertain, it is argued that policymakers cannot reliably act in future generations' interests. However, Thompson rebutted this by arguing that at least some future claims are predictable: for example, "even in the remote future, we can reasonably assume that citizens will not want to live with toxic chemicals, foul air, and chronic disease." (Thompson, [2010](#): pg 8).⁴

Wellbeing as a factor in decision making

- 9 Various countries around the world have embedded wellbeing and sustainability into their policymaking processes. Both Bhutan's Gross National Happiness (GNH) Index and New Zealand's Wellbeing Budget took steps to incorporate non-monetary dimensions into Government decision-making.
- 10 In New Zealand, this has led to a preventative approach to mental health, which had previously cost the Government 5% of their GDP annually (Mintrom, [2019](#)).⁵ In Bhutan, in the last 30 years, life expectancy has doubled, all of their primary-school-aged children are enrolled in school, and due to its commitment to keep over 60% of its landmass under forest cover in perpetuity, they are also the only carbon negative country in the world (Guardian, [2012](#)).⁶
- 11 The Bill aims to ensure policymakers are considering future generations' needs, prevention and the key components of wellbeing in all their work, with the intention that this will have further effects regarding the mitigation of poverty, climate change and pandemics.

² Office for National Statistics *Births in England and Wales: 2019* (2020) <https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/livebirths/bulletins/birthsummarytab/englandandwales/2019>

³ World Wildlife Fund *A warning sign from our planet: nature needs life support* (2018) <https://www.wwf.org.uk/updates/living-planet-report-2018>

⁴ Thompson, D. *Representing Future Generations: Political Presentism and Democratic Trusteeship* (2010) <https://dash.harvard.edu/bitstream/handle/1/9464286/Representing%20Future%20Generations-Barry%20final.pdf;jsessionid=36756192BFF2A1003E2562AAF7467E45?sequence=1>

⁵ Minstrom, *New Zealand's Wellbeing Budget Invests in Population Health* (2019) <https://www.jstor.org/stable/45237115?seq=1>

⁶ Annie Kelly, 'Gross national happiness in Bhutan: the big idea from a tiny state that could change the world' *The Guardian* (1 December 2012): <https://www.theguardian.com/world/2012/dec/01/bhutan-wealth-happiness-counts>

Territorial extent and application

12 The Bill extends to England and Wales, Scotland and Northern Ireland.

Commentary on provisions of Bill

Clause 1 – Overview

- 13 Clause 1 provides an overview of the Bill.

Clause 2 – Sustainable development

- 14 Clause 2 defines sustainable development as the process of improving the economic, social, environmental and cultural wellbeing of the United Kingdom by taking action, in accordance with the future generations principle, aimed at achieving the wellbeing goals provided for by Clause 6.

Clause 3 – Future generations principle

- 15 Clause 3 specifies that any reference to a public body doing something “in accordance with the future generations principle” is a reference to the body acting 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.

Clause 4 – Meaning of “public body”

- 16 Clause 4 defines a “public body” as any body or person that is under the control of a body or person that has public responsibilities, exercises functions of a public nature, or provides public services, but only in respect of the exercise of functions that do not fall within the devolved powers of the Scottish Government, the Welsh Ministers or the Northern Ireland Executive. This does not include either House of Parliament, or a person exercising functions in connection with proceedings in Parliament.
- 17 The definition of “public body” therefore includes private companies to the extent that they carry out public functions (for example, a company that runs government properties). Thus, any private company carrying out public functions is covered by all the wellbeing duties under this Bill.
- 18 Subsection (3) provides that the Secretary of State may, by regulations, amend the meaning of a public body by adding or removing a person, or amending the description of such a person, subject to certain conditions in subsection (4).

Clause 5 – Consultation and provision for the wellbeing goals

- 19 Clause 5 establishes the process for determining the wellbeing goals, which collectively express a vision for improving the economic, social, environmental and cultural wellbeing of the United Kingdom, and provide a framework to guide the improvement of wellbeing in a sustainable manner.
- 20 Subsection (1) states the Secretary of State must carry out a public consultation on the proposed wellbeing goals, including with persons the Secretary of State deems appropriate. The public consultation must be concluded within nine months of the Bill coming into force and should engage diverse communities across the population, with particular focus on young people and children from different social backgrounds.
- 21 The Secretary of State must appoint a “public consultation coordinating body” to organise the public consultation. This body must produce a report setting out the views of the population on the wellbeing goals, within one month of the consultation concluding.
- 22 The Secretary of State must lay the report on the wellbeing goals recommended through the public consultation before both Houses of Parliament within two months of the report, including any recommendations to change the proposed wellbeing goals. After this, the

Secretary of State must by regulations make provision for the purposes of establishing the wellbeing goals.

- 23 The wellbeing goals will enable public bodies to understand what they must seek to achieve in order to improve the wellbeing of the United Kingdom, for both current and future generations. The Secretary of State must review the wellbeing goals every five years through a public consultation. The Future Generations Commission must review the results of each consultation and make recommendations to the Secretary of State on any proposed changes to the wellbeing goals.
- 24 The main purpose of the wellbeing goals is to set the context within which public bodies must set wellbeing objectives (see Clause 6). Public bodies will seek to achieve the wellbeing goals through meeting their wellbeing objectives.

Clause 6 – Wellbeing duty on public bodies: objectives

- 25 Clause 6 requires public bodies to carry out sustainable development (as provided for in Clause 2). In fulfilling this duty, public bodies must set and publish wellbeing objectives. These are objectives relating to how the public body intends to maximise its contribution to the achievement of the wellbeing goals (see Clause 5). The public body must take action to meet its wellbeing objectives. A public body can set objectives relating to the area in which they exercise their functions, whether that be the United Kingdom as a whole or only part of it. These duties would build on other work to minimise additional efforts.

Clause 7 – Wellbeing duty on public bodies: ways of working

- 26 Clause 7 contains further provisions relating to the application of the wellbeing duty.
- 27 Public bodies must meet their wellbeing objectives, as set under Clause 6(2) of the Bill, in accordance with the future generations principle, which states that a body must 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.
- 28 This Clause details the matters that public bodies must take into account in order to discharge this requirement. The precise elaboration of these ways of working need to draw on international best practice, including the [Gross Domestic Wellbeing ‘cornerstones of wellbeing’⁷](#): prevention, participation, equalities, localism, integration and long-termism which have come from a review of reviews.
- 29 Paragraph (a) relates to long-term thinking. When setting and meeting their wellbeing objectives, public bodies must balance their need to take action to address current issues (the short term) with the need to safeguard their ability to meet long-term needs. This is especially relevant where their short-term actions may have a detrimental effect in the future.
- 30 Paragraph (b) provides for preventative action. This refers to public bodies deploying resources to prevent problems occurring or worsening that may contribute to meeting the wellbeing objectives.
- 31 Paragraph (c) serves to ensure there are sufficient resources deployed by public bodies to undertake long-term planning.
- 32 Paragraph (d) details the need to forecast and manage emerging risks that may undermine a public body’s wellbeing objectives, or another body’s objectives.

⁷ Carnegie, UK. *Gross Domestic Wellbeing (GDWe): An alternative measure of progress* (2020) https://d1ssu070pgg2v9i.cloudfront.net/pex/carnegie_uk_trust/2020/12/03170016/LOW-RES-4708-CUKT-GDWe-Social-Progress-Summary.pdf

- 33 Paragraph (e) relates to public bodies taking an integrated approach. This involves public bodies considering how their wellbeing objectives impact upon each of the wellbeing goals and how their wellbeing objectives impact upon each other, as well as upon the wellbeing objectives of other public bodies. Specifically, whether steps taken by a body may contribute to meeting one objective but may be detrimental to meeting another. This is particularly relevant where the activities of one public body could inhibit the ability of another public body in maximising its contribution to the achievement of the wellbeing goals.
- 34 Public bodies must have regard to the importance of engagement, as provided for by paragraph (f). This entails involving the people and bodies with an interest in achieving the wellbeing goals.
- 35 Paragraph (g) relates to public bodies taking a collaborative approach. This means public bodies working together, either with other bodies or other parts of their own body, in order to assist in meeting their wellbeing objectives or the wellbeing objectives of any other public body subject to the provisions of the Bill.

Clause 8 – Statements about wellbeing objectives

- 36 When publishing their wellbeing objectives, a public body must publish a statement, the requirements of which are detailed in Clause 8. This statement is also required should government departments revise their wellbeing objectives under Clause 9, or in the case of the other public bodies, Clause 10.
- 37 In preparing the statement, the public body must explain why they consider that meeting their wellbeing objectives will contribute to the achievement of the wellbeing goals. The statement will explain why the public body considers that their wellbeing objectives have been set in accordance with the future generations principle and explain how the public body proposes to involve other persons in achieving the wellbeing goals, ensuring those persons reflect the diversity of the population in the area that the public body exercises its functions in relation to.
- 38 The statement must also detail what the public body intends to do (their steps) to meet their wellbeing objectives in accordance with the future generations principle. The public body must detail how it will govern itself, ensure the steps are kept under review and explain how resources are allocated annually for the purposes of taking their identified steps. In addition, the statement will detail the timeframe within which the public body expects to meet its wellbeing objectives.

Clauses 9 and 10 – Government departments’ and other public bodies’ wellbeing objectives

- 39 Clause 9 requires each government department to publish wellbeing objectives, as required under Clauses 6 and 8 of the Bill, no later than six months after the date that each general election is held or the date on which a new Prime Minister is appointed by the Crown.
- 40 The wellbeing objectives of government departments must be set for their term of government, which is until the scheduled date of the next general election, as defined in section 3 of the Fixed-term Parliaments Act 2011.
- 41 Clause 10(2) provides that other public bodies, namely those described in Clause 4 but excluding government departments, must initially set and publish their wellbeing objectives before the start of the financial year that follows the commencement of Clause 10 of the Bill. Each public body must then set and publish subsequent wellbeing objectives at such time as they consider appropriate. Each public body must always have wellbeing objectives in place which contribute to the achievement of the wellbeing goals.

- 42 Government departments and other public bodies must, under Clauses 9(3) and 10(3) respectively, review their wellbeing objectives should the wellbeing goals be amended and every time a futures and forecasting report is published. This is intended to ensure the wellbeing objectives remain aligned with the current wellbeing goals and account for the future trends and risks of the United Kingdom.
- 43 If following a review, the government department and/or a public body determine that a wellbeing objective is no longer appropriate, they must revise the objective. For example, an objective could be considered no longer appropriate if the wellbeing goal(s) to which the objective contributes has been amended or the matter the wellbeing objective is addressing has changed (the objective is no longer relevant) or the wellbeing objective is not achieving the anticipated improvement in relation to the wellbeing goal(s) (the wellbeing objective is no longer effective).
- 44 Government departments or other public bodies may review and revise their wellbeing objectives at any time they consider appropriate under Clauses 9(5) and 10(5) respectively. Revised wellbeing objectives must be published as soon as is reasonably practicable.
- 45 Clause 9(6) provides that any wellbeing objectives revised by government departments must be set for the remainder of their term of government.
- 46 Clauses 9(8) and 10(7) respectively require government departments and the other public bodies to have regard to the latest future generations report, as prepared by the Commission under the provisions of Clause 29, when setting or revising their wellbeing objectives. The future generations report may help public bodies in understanding what improvements they could make in order to set and achieve their wellbeing objectives in accordance with the future generations principle.

Clause 11 – Future generations impact assessments

- 47 Clause 11 mandates that any proposal for a change in public expenditure or policy by a public body to which this Bill applies must be accompanied by an assessment (“future generations impact assessment”) of the likely impact of the proposal on its wellbeing objectives and on future generations, or a statement setting out its reasons for concluding that it does not need to carry out a future generations impact assessment.
- 48 This assessment should include the likely impact of the proposal on future generations over the course of at least 25 years from the date on which the assessment is published. Where a future generations impact assessment finds that an expenditure or policy change would have an adverse impact on a public body’s wellbeing objectives, the public body concerned must publish a statement of how it intends to mitigate the adverse impact identified.

Clause 12 – Annual wellbeing goals report

- 49 This Clause places a duty on the Secretary of State to publish, and lay before both Houses of Parliament, national indicators. These national indicators must be used to measure the progress being made across the public bodies towards the achievement of the wellbeing goals. Subsection (2) details criteria with which the national indicators must comply.
- 50 The Secretary of State is also under a duty to set milestones, in relation to the national indicators, which they consider, if achieved, would assist in indicating that progress is being made towards the achievement of the wellbeing goals. When setting each milestone, the Secretary of State must also set out the criteria for determining whether that milestone has been achieved and by when this should happen.
- 51 The Secretary of State may review and revise the national indicators and milestones by regulations at any time they consider appropriate. However they must, under subsection (5),

review the national indicators and milestones should the wellbeing goals be amended. This is intended to ensure the national indicators and milestones remain aligned with the current wellbeing goals.

- 52 Should the Secretary of State, following a review, determine that any national indicator or milestone is no longer appropriate, they must revise the indicator(s) or milestone(s). The revised national indicators and milestones must be published and laid before both Houses of Parliament as soon as reasonably practicable.
- 53 Prior to setting or revising the national indicators and milestones the Secretary of State must consult with the Commission, the other public bodies and any other person that they consider appropriate.
- 54 The Secretary of State is required to publish annually an update report (the annual wellbeing report) in respect of the national indicators detailing the progress being made towards the achievement of the wellbeing goals. This update must specify the period of time to which the measurement of each national indicator relates.

Clauses 13 and 14 – Annual reports by Ministers of the Crown and other public bodies

- 55 The Ministers of the Crown are required to prepare an annual report on the progress they have made towards meeting their wellbeing objectives. This annual report must be published and laid before both Houses of Parliament in respect of each financial year.
- 56 In preparing the report, Ministers of the Crown must review government departments' wellbeing objectives with the Future Generations Commissions for the United Kingdom and Wales, any public body or body charged with protecting the needs of future generations in Scotland and in Northern Ireland and any other Commission, public body or body deemed appropriate by Ministers of the Crown.
- 57 Clause 14 requires annual reports to be published by other public bodies on the progress they have made in meeting their wellbeing objectives.
- 58 When preparing the annual report, Ministers of the Crown and other public bodies must review their wellbeing objectives. Should a public body or Ministers of the Crown determine that any wellbeing objective is no longer appropriate, they must revise the wellbeing objective or objectives. Where this review results in the revision of one or more wellbeing objectives, a justification for, and explanation of, the revision must be included in the annual report.

Clause 15 – Guidance

- 59 Section 15 places a duty on the Secretary of State to issue guidance to other public bodies in respect of Part 2 of the Bill. A public body must take such guidance into account when exercising functions or discharging duties provided for under Part 2 of the Bill.

Clause 16 – Futures and forecasting report

- 60 The Secretary of State is required to publish a “futures and forecasting report” during the 12 months following the date of a general election or the date that a new Prime Minister is appointed by the Crown.
- 61 This must include predictions and plans to manage likely long-term future trends and risks concerning the economic, social, environmental and cultural wellbeing of the United Kingdom, and any related information that the Secretary of State considers appropriate.
- 62 The report must also contain an assessment of risks, including high-impact low-probability risks, environmental risks, global risks and risks that may emerge or grow in the future, for at least the forthcoming 25 years, and details of the assessment process used to identify future risks.

- 63 In preparing the report, the Secretary of State must take account of any long-term global goals and targets set in place by the United Nations in relation to sustainable development, assessing the potential impact on the economic, social, environmental and cultural wellbeing of the United Kingdom. This would include the 17 UN Sustainable Development Goals, referred to in UN resolution [A/RES/70/1](#) which was adopted by the UN General Assembly on 25 September 2015.
- 64 The Secretary of State must also take account of the advice and reports of the United Kingdom Committee on Climate Change, the United Nations Intergovernmental Panel on Climate Change and the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.
- 65 The views of 11-25 year olds, including students in primary, secondary, further and higher education in the United Kingdom must be taken into account via a continuous engagement exercise, checked and reported on every two years, which would gather their views on economic, social, cultural and environmental wellbeing. For this purpose, the Secretary of State may, by regulations, provide for this engagement exercise. When engaging with students, the Government may choose to educate them on the Bill and its ambitions.
- 66 The publication of this report, within the 12 months following an election, triggers the provisions of Clause 34 relating to the requirement on the Commission to prepare the future generations report.

Clause 17 – Reporting on preventative spending

- 67 Clause 17 places a duty on each public body to publish a report containing its annual draft budget proposal, which includes the proportion and total amount of preventative spending, breakdowns of spending in each prevention category as defined in subsection (3), and the public body's justification for categorising spending as preventative spending.
- 68 In instances where appropriate spending and accounting information is not available, public bodies must include estimates for preventative spending.
- 69 Where a public body has not increased its proportion of preventative spending in a financial year, it must include in its next published report a statement which sets out why it has not done so.
- 70 The Treasury must publish an annual report which sets out how it intends to promote the future generations principle, including its justifications for the proportion of money it has allocated towards preventative spending.

Clause 18 – The future generations principle: Comptroller and Auditor General's examinations

- 71 Clause 18 confers a power on the Comptroller and Auditor General to carry out examinations of public bodies in order to assess the extent to which a body has acted in accordance with the future generations principle in both setting and taking steps to meet their wellbeing objectives. The Comptroller and Auditor General must then report on the results of the examinations.
- 72 The reporting period begins on the day on which this Bill comes into force, and ends on the date falling five years from when the Bill comes into force. The Comptroller and Auditor General must subsequently report on the results of the examinations every five years.
- 73 Subsection (6) sets out the procedures to be followed in the event the Comptroller and Auditor General's examination relates to the remit of a review by any other oversight body.

Clause 19 – Specifying function of the Office for Budget Responsibility

- 74 Clause 19 specifies the function of the Office for Budget Responsibility to include future risk accounting and to include an assessment of the extent to which the milestones set in relation to the national indicators, as set out in Clause 12 of this Bill, have been, or are likely to be, achieved.
- 75 This specification for the Office is motivated by the need to emphasise the importance of longer-term fiscal forecasting, and using updated methodologies such as superforecasting (looking 25+ years into the future) with responsibly weighted uncertainties and risk profiles. For example, the uncertainty around the potential for a future pandemic, or a triggered financial crisis, will be appropriately weighted against the seriousness of the risk to fiscal health and potential cascading risk scenarios to public finances.

Clause 20 – Extending remit of the Office of Budget Responsibility

- 76 Clause 20 builds on Clause 19 by extending the remit of the Office for Budget Responsibility to include advising HM Treasury directly, following the publication of the futures and forecasting report. They must evaluate the effects that the risks laid out in the report under Clause 16 pose to national wellbeing. This provides a means by which fiscal and economic policy can respond to the futures and forecasting report.

Clause 21 – The Joint Committee on Future Generations

- 77 Clause 21 establishes the Joint Committee on Future Generations. The Committee will consist of six members of the House of Lords and six members from the House of Commons. Each member of the Committee is to be appointed by resolution of their relevant House of Parliament and a member appointed to the Committee may serve for the duration of that Parliament.

Clause 22 and 23 – Functions and reports of the Joint Committee on Future Generations

- 78 Clause 22 provides that the general functions of the Committee are to examine any bill it deems appropriate, introduced into either House of Parliament, with a long-term perspective in order to consider the impact on the future generations principle and the relevant department's wellbeing objectives, to propose amendments to improve the compatibility of bills they choose to review with the future generations principle and the relevant department's wellbeing objectives, to undertake inquiries in order to explore specific issues focussing on the importance of long-term policy-making, and to participate in the appointment process of the Future Generations Commission.
- 79 Clause 23 outlines the Committee's reporting duties. The committee is required to publish an annual report on long-term trends, which may include recommendations to the Government, an annual report to Parliament on the discharge of its functions and an annual report on the progress and relevance of the national indicators. The Committee is also permitted to make other reports as it considers appropriate concerning any aspect of its functions.

Clause 24 – Future Generations Commission for the United Kingdom

- 80 Clause 24 establishes the Future Generations Commission for the United Kingdom, a set of individuals appointed by the Prime Minister in consultation with the First Minister of Scotland, the First Minister of Wales and the First Minister and deputy First Minister of Northern Ireland. An appointed member may resign from the panel but must provide a minimum of 3 months' notice in writing to the Secretary of State.
- 81 Subsection (6) references Schedule 1, which makes further provision about the Commission.

Clauses 25 and 26 – Commission’s general duty and functions

- 82 Clause 25 establishes that the general duty of the Commission is to promote the future generations principle. In particular to act as a guardian of the ability of future generations to meet their needs and to encourage public bodies to take greater account of the long-term impact of their activities, whilst also engaging members of the public on issues affecting the long-term future of the UK. For this purpose, the Commission must also monitor and assess the extent to which the wellbeing objectives set by public bodies are being met.
- 83 Clause 26(1) sets out the actions the Commission may undertake in carrying out its general duty, including the provision of advice or assistance to a public body and to the Comptroller and Auditor General, and the encouragement of best practice and awareness amongst public bodies in taking steps towards meeting their wellbeing objectives. It can also instigate meetings with the Joint Committee and Minister in charge of protecting future generations, at any reasonable time, to review the national indicators.
- 84 Clause 26(2) confers power on the Commission to undertake research or other study in relation to the future generations principle, the extent to which the wellbeing goals and national indicators are consistent with the future generations principle and anything related to these things that impacts upon the economic, social, environmental and cultural wellbeing of the United Kingdom.

Clause 27 to 29 – Reviews by the Commission, recommendations made and the duty to follow recommendations

- 85 Clause 27 provides for the Commission to conduct a review of the extent to which a public body is meeting its wellbeing duties. In conducting a review, the Commission may make recommendations to the public body about the steps the body has taken or proposes to take to meet its wellbeing objectives, and how to set wellbeing objectives and take steps to meet them in accordance with the future generations principle.
- 86 Clause 28 states that, in providing advice or assistance to a public body, the Commission may also make recommendations to the Government about the wellbeing goals or the national indicators.
- 87 Clause 29 states that a public body must take all reasonable steps to follow the Commission’s recommendations unless the body is satisfied there is a good reason not to, or it decides on an alternative course of action, in which case it must explain the reason for its decision.

Clause 30 – Investigations

- 88 Clause 30 establishes the Commission’s ability to conduct investigations into public bodies when they, or any person who wants to appeal to the Commission to initiate an investigation, suspects that a public body has failed to comply with its duties under the Bill. This Clause references Schedule 2 of the Bill, which makes supplemental provision about investigations.
- 89 This Clause specifies that the Commission can only conduct the investigation after a period of 6 months after issuing a recommendation. Before finalising a report of an investigation recording a finding that a public body has committed an unlawful act, the Commission must send a draft of the report to the public body, specify a period of at least 28 days during which the body may make written representations about the draft and consider any representations made.

Clause 31 – Applications to Court

- 90 Clause 31 details that if, subsequent to an investigation, the Commission concludes that a public body has failed to fulfil its duties, it may apply to the High Court in England and

Wales, the Court of Session in Scotland or to the High Court in Northern Ireland, for an order requiring the public body to comply with recommendations from the Commission, and to take such other action as the court may specify.

Clause 32 – Proceedings

- 91 Clause 32 sets out that proceedings may be brought against a public body by a person on the grounds that it has acted (or proposes to act) in a way which breaches its obligations under the Bill. A person may also refer the case for investigation to the Commission in accordance with Clause 30.

Clause 33 – Judicial remedies

- 92 Clause 33 establishes that the High Court in England and Wales, the Court of Session in Scotland, or the High Court in Northern Ireland may grant relief or remedy, or make such order within its powers, as it considers just and appropriate in relation to any act (or proposed act) of a public body which the court finds is (or would be) a breach of its obligations.
- 93 A court may impose a fine, payable to the Commission, in an amount prescribed by regulations made by the Secretary of State. This must be in relation to guidance published by the Commission.

Clause 34 and 35 – Future Generations report and activity during the reporting period

- 94 Clause 34 requires the Commission to prepare a report detailing the improvements public bodies should make in order to set and meet their wellbeing objectives in a manner that is consistent with the future generations principle.
- 95 The Commission must publish this report before the end of the reporting period. The “reporting period” runs from the day after a futures and forecasting report, ending on the date of publication of the next futures and forecasting report. The Secretary of State may, by regulations, amend the definition of the reporting period.
- 96 This report must include an assessment of how public bodies should better safeguard the ability of future generations to meet their needs and better consider the long-term impact of what they do. The report must also provide a summary of the evidence gathered and the activities undertaken by the Commission during the reporting period, a summary of reviews conducted in the reporting period, as well as the actions the Commission has undertaken in exercising their functions. It also may include an account of any research or other study undertaken under Clause 26(2) and any other information deemed appropriate by the Commission.
- 97 The Commission must send a copy of the report to the Secretary of State who must lay a copy before both Houses of Parliament.
- 98 The Commission must consult with those people listed under Clause 35(1), as well as anyone else the Commission considers appropriate, to ensure that economic, social, environmental and cultural interests are fully represented, during the reporting period and before publishing the future generations report.
- 99 When preparing the future generations report the Commission must take into account:
 - the representations of those persons consulted under Clause 35(1),
 - each annual wellbeing report under Clause 12 published during the reporting period,

- the futures and forecasting report published under Clause 16 on the day before the beginning of the reporting period, and
- any relevant reports of the Comptroller and Auditor General.

Clause 36 – Joint working

- 100 Clause 36 makes provision for the Commission when conducting a review to work jointly with other Commissions, namely the Future Generations Commission for Wales, any person or body charged with protecting the needs of future generations in Scotland, in Northern Ireland and any other Commission, person or public body deemed appropriate by the Commission.
- 101 This Clause applies if the Commission considers that a matter which they intend to review is the same, or significantly similar, to the subject matter of a review or inquiry being undertaken by any of the other Commissions. The Commission may inform the other Commission(s) about their intention to conduct a review and consult with the other Commission(s).
- 102 The Commissions may also cooperate with each other in relation to undertaking a review or inquiry and may jointly prepare a document that both provides the advice and reports the findings of the review or inquiry.

Clause 37 – Citizens panel

- 103 Clause 37 establishes the citizens panel. This will be a panel of advisors, who provide the Commission with advice on the exercise of the Commission's functions.
- 104 Subsection (3) specifies that the Secretary of State must provide for a "citizens panel coordinating body" which must select the members of the citizens panel, ensuring that the membership reflects the composition of the population of the United Kingdom. The body must also establish an advisory board to recommend to the citizens panel coordinating body which persons and organisations it deems necessary to advise the citizens panel, and establish a rotation process for the membership to replace members of the citizens panel.

Clause 38 – Added duties for existing Ministers

- 105 Clause 38 establishes a duty on an existing Minister from each Government department to promote the future generations principle across central Government's work. The specific Ministers will be chosen by the Prime Minister in consultation with the First Minister of Scotland, the First Minister of Wales and the First Minister and deputy First Minister of Northern Ireland.

Clauses 39 and 40 – Ministers' general duty and functions

- 106 Clause 39 establishes that the general duty of the Minister is to promote the future generations principle across Government. In particular, the duty requires them to act as a guardian of the ability of future generations to meet their needs and to encourage Government departments to take greater account of the long-term impact of their activities, whilst also ensuring the futures and forecasting report builds on the horizon scanning work that the Government Office of Science undertakes, and is incorporated into the long-term vision of each department's policy agendas. For this purpose, the Minister must also monitor and assess the extent to which the wellbeing objectives set by Government departments are being met.
- 107 Clause 40(1) sets out the actions the Minister may undertake in carrying out their general duty, including the provision of advice or assistance to a Secretary of State or Minister, and the encouragement of best practice and awareness amongst Government departments in taking steps towards meeting their wellbeing objectives. To ensure the national indicators are kept up to date and practical, the Minister may instigate meetings with the Joint Committee

and Commission, at any reasonable time, to review them and feed back the experiences of Government departments.

Clause 41 – Power to make consequential etc. provision

108 Clause 41 provides that the Secretary of State may make regulations to make consequential, incidental, supplemental, transitional or saving provisions for the purposes of giving full effect to the Bill.

109 Any regulations made under this power may amend, repeal or revoke any enactment contained in, or in an instrument made under, an Act of Parliament; this includes a reference to an enactment passed or made after the passing of this Bill.

110 The power conferred by this Clause is not restricted by any other provision of this Bill.

Clause 42 – Regulations

111 This Clause makes further provision in relation to the making of regulations under this Bill. Any power to make regulations under this Bill is exercisable by statutory instrument. However, any statutory instrument made under this Bill, other than one made under Clause 41, may not be made unless a draft of the instrument has been laid before and approved by a resolution of both Houses of Parliament.

Clause 43 – Interpretation

112 This Clause provides the definition of “financial year”, which in this Bill means the period of 12 months ending with 31 March.

Clause 44 – Extent, short title and commencement

113 This Bill extends to England, Wales, Scotland and Northern Ireland and may be cited as the Wellbeing of Future Generations Act 2021. This provision of the Bill comes into force at the end of the period of six months beginning with the day on which it is passed.

Schedule 1 – The Future Generations Commission for the UK

114 Paragraphs 1 to 5 contain technical provisions in respect of the status, terms, remuneration and other matters relating to the appointment of the Commission. Paragraph 2 prescribes that each member of the Commission is to be appointed for a period of 7 years.

115 Paragraphs 6 and 7 detail the grounds on which individuals may be disqualified from being appointed as Commission and the arrangements for ending members’ appointment (other than through disqualification).

116 Paragraph 8 makes provision for the Commission to do anything they consider appropriate in connection with the Commission’s functions, including charging for services, paying third parties for services and accepting gifts. The Commission may not provide financial support to acquire or dispose of land without the approval of the Secretary of State.

117 Paragraphs 9 and 10 make provision as regards the powers of the Commission to appoint and pay staff and the ability to delegate functions of the Commission to any person including a member of their staff.

118 Paragraph 11 requires the Commission to establish a procedure for investigating complaints regarding the exercise of their functions and to create and maintain a register of the Commission’s interests, making a copy available for inspection by the public. Paragraph 12, 13 and 14 provides that a member must not exercise a function if they have registered an interest which relates to the exercise of that function.

119 Paragraph 15 provides the Secretary of State may pay the Commission amounts appropriate in respect of expenditure to carry out the functions of the Commission.

These Explanatory Notes relate to the Wellbeing of Future Generations Bill [HL] as introduced in the House of Lords on 20 May 2021 (HL Bill 6)

- 120 Paragraph 16 requires the Commission to produce an annual report covering each financial year; this report must be published no later than 31 August following the end of the financial year that it covers. The Commission must send the report to the Secretary of State who must lay it before both Houses of Parliament.
- 121 In preparing this report, the Commission must consult the advisory panel (see Clause 37) and any other person the Commission considers appropriate. The annual report is to provide a summary of the Commission's work programme and detail the actions taken by the Commission during that financial year, an analysis of the Commission's effectiveness in enabling the Commission's general duty to be carried out, together with details of their proposed work programme for the following financial year and a summary of any complaints made. The report may include the Commission's assessment of the improvements public bodies should make in order to be more consistent with the future generations principle when setting and meeting their wellbeing objectives.
- 122 Paragraph 16 also defines the Commission's first financial year for the purposes of the Bill as running from the day on which the Commission is appointed up until the following 31 March.
- 123 Paragraphs 17 to 21 set out the responsibilities a member of the Commission has as accounting officer. These paragraphs provide for the preparation of estimates and accounts by the Commission, including any directions that can be given by the Secretaries of State, and the auditing of accounts and the examination into the use of the Commission's resources by the Comptroller and Auditor General.
- 124 Paragraph 22 provides that the Commission may have a seal and provides that any document executed under this seal or signed by, or on behalf of, the Commission is to be received in evidence and, unless otherwise proven, taken to be a document of the Commission.

Schedule 2 – Investigations by the Future Generations Commission for the United Kingdom

- 125 Schedule 2 begins by setting out the provisions relating to the terms of reference and representations regarding investigations.
- 126 Paragraphs 4 and 5 allow the Commission to give a notice to any public body, in the course of an investigation which may require it to provide information.
- 127 Paragraph 6 establishes the grounds on which the recipient of a notice may apply to the High Court in England and Wales, the Court of Session in Scotland or the High Court in Northern Ireland to have the notice cancelled.
- 128 Paragraph 7 enables the Commission to apply to the courts for an order requiring a public body to take such steps as may be specified in the order to comply with the notice.
- 129 Paragraph 8 specifies that a public body commits an offence if without reasonable excuse it (a) fails to comply with a notice under paragraph 5 or an order under paragraph 7(2); (b) falsifies anything provided or produced in accordance with a notice under paragraph 5, and (c) makes a false statement in giving oral evidence in accordance with a notice under paragraph 5.
- 130 Paragraph 9 establishes the requirement on the Commission to publish a report of the findings of an investigation.
- 131 Paragraph 10 sets out the powers of the Commission to make recommendations.
- 132 Paragraph 11 specifies that a court or tribunal may have regard to a finding of the report of an investigation and its recommendations, but that the court or tribunal should not treat it as conclusive.

133 Paragraph 12 provides that a public body should have regard to a recommendation in the report of an investigation that is addressed to them.

134 Paragraph 13 details information regarding courts and tribunals. It specifies that an investigation may not question the findings of a court or tribunal.

135 Paragraph 14 provides information regarding intelligence services. It specifies that an inquiry may not consider whether an intelligence service has acted (or is acting) in accordance with the wellbeing goals or future generations principle.

Commencement

136 This Bill comes into force at the end of the period of six months beginning with the day on which it is passed.

Financial implications of the Bill

137 To establish a public consultation on the set of wellbeing goals decided by the Secretary of State, the maximum cost is estimated to be £40,000. This number was found through a [2018 Times investigation](#)⁸ into the cost of public consultations.

138 The cost to public bodies and Government departments of the wellbeing duty is variable as it would depend on whether bodies or departments could take them on with current staffing levels and expertise or would need to expand in any way.

139 The Office for Budget Responsibility's budget is largely used to cover what they are legally mandated to produce, so if they were to take on another duty, more funding would be needed. This is at the discretion of the Government, after estimates have been made by the OBR on how much will be needed to forecast accurately the likelihood of economic collapse and to check progress of the indicators across Government, given budget allocations.

140 In regard to the cost of establishing a Joint Committee on Future Generations within Parliament, in April, the House of Commons published a memorandum exploring the financial consequences of creating a committee to investigate the lobbying of government.⁹ It made the following estimates regarding cost.

141 It has been assumed that the staffing levels for the Committee would need to be broadly comparable to those of a departmental select committee. This would suggest an estimated £225,000 in staff costs for a six-month period. Support from the media team to promote the work of the Committee would cost an additional £10,000 for a six-month period. On average select committees spend approximately £8,000 on non-staff costs such as specialist advisers and publications in a six-month period. This estimate does not include travel costs.

142 Based on these broad assumptions the total anticipated cost of establishing the committee per annum is £486,000.

⁸ 'Ministers waste tens of millions of pounds on pledges' *The Times* (30 March 2018):

<https://www.thetimes.co.uk/article/ministers-waste-tens-of-millions-of-pounds-on-pledges-r23jpgc57>

⁹ UK Parliament Accounting Officer, Committee to Investigate the Lobbying of Government Motion: Financial Consequences, Memorandum by the Accounting Officer, 13 April 2021: <https://www.parliament.uk/globalassets/financial-consequences-memorandum-final---13-april-2021-002.pdf>

- 143 To establish an Office for the Future Generations Commission, it is likely to cost c. £2 million per annum. This is based on the fact that the Government has provided the Social Mobility Commission with an annual budget of £2 million since 2019¹⁰ and they have largely similar responsibilities and reporting duties. Furthermore, the Office of the Future Generations Commissioner for Wales received £1.48 million to fund activities in 2018-19 (and the same in 2017-18).
- 144 The citizens' panel which is the advisory panel to the Commission includes a rotating set of 50 persons - the cost of organising this is expected to be similar to a Citizen's assembly. [Involve UK](#) places the cost of a 50 person citizen assembly to be between £66,000 - £107,500.¹¹
- 145 For the cost of adding a responsibility to promote the future generations principle into the portfolio of a Minister from each Government department, it is at the discretion of the Government to allocate an appropriate budget as it would first depend on the capacity of the department to take on the extra work or whether they would need to expand.
- 146 The above are all possible short-term expenditure increases for the Government. The aim of the Bill however is to reduce long-run government costs by encouraging more pre-emptive and preventative spending.

¹⁰ The Social Mobility Commission, *Annual review & business plan 2020* (2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/957930/SMC_Annual_Review_2020_high_res.pdf

¹¹ Involve UK, *Frequently Asked Questions* (2021) <https://www.involve.org.uk/resources/knowledge-base/how-do-i-setup-citizens-assembly/frequently-asked-questions>

WELLBEING OF FUTURE GENERATIONS BILL [HL]

EXPLANATORY NOTES

These Explanatory Notes relate to the Wellbeing of Future Generations Bill [HL] as introduced in the House of Lords on 20 May 2021 (HL Bill 6).

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