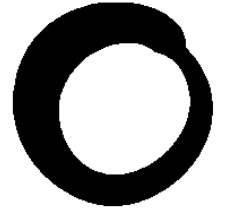


April 2011



**Friends of
the Earth**

Energy Bill Briefing

The Scottish Climate Change Act and local carbon action

Introduction

New legislation in Scotland requires councils to lead action on climate mitigation and adaptation in their communities in line with the ambition of the Scottish Climate Change Act.

This contrasts with the situation in England, where most climate requirements on councils have recently been abolished with the scrapping of the Local Government Performance Framework, in particular National Indicators 185 and 186ⁱ.

Friends of the Earth England, Wales and Northern Ireland is proposing to amend the Energy Bill 2011 to ensure every council in England does its bit to help meet UK Climate Change Act commitments. This briefing outlines the situation in Scotland as background to these proposals.

This Friends of the Earth England, Wales and Northern Ireland briefing has been written with the kind assistance of Friends of the Earth Scotland, a fellow member of the Friends of the Earth International network.

Scotland: a new duty on public bodies

The Climate Change Act (Scotland) 2009ⁱⁱ, passed unanimously by the Scottish Parliament, contains a duty on public bodies to contribute to meeting the delivery of its emissions reduction targets: a 42 per cent cut by 2020 and a 80 per cent cut by 2050. It also requires public bodies to contribute to national climate adaptation programmesⁱⁱⁱ.

The duty applies to a range of public bodies, including Scottish **local authorities**. It came into force in January 2011.

The Act reserves the right for the Scottish Ministers to introduce powers in the future to:

- Introduce additional climate change duties on individual or categories of public bodies
- Require reports on compliance with climate change duties
- Designate one or more bodies or persons to monitor and to carry out investigations into public bodies' compliance with the duties.

The public bodies duty is accompanied by guidance^{iv}, which was published on 4 February 2011.

Guidelines are provided for successful local climate change adaptation and mitigation plans, such as how to on consultation, transparency and constructing a strong evidence base.

Although the duty encompasses all public bodies, the guidance differentiates between 'major players' such as local authorities and non-departmental public bodies, and smaller actors – for example GP surgeries. For 'major players', it sets out a recommended five-part approach to taking action including leadership, target-setting, action and reporting^v.

Targets

At this stage, no targets are set for public bodies' emissions reductions. It is up to public bodies to undertake this process themselves. The Scottish Parliament reserves the right to introduce targets in the future.

The importance of target-setting is underlined in the guidance: 'setting clear and publicly-available targets drives improved performance, hence the ambitious national targets that have been set for Scotland (at least 42 per cent reduction in GHG emissions by 2020, 80 per cent by 2050)'.

Public bodies are asked to commit themselves to targets in line with those set nationally. There is a 'presumption... that [locally set] targets should echo the ambition of the national targets. Where this is not the case, the reasons for this should be explained'.

Scottish council support for the new duty

Councils in Scotland have been supportive of the introduction of the new duty on public bodies^{vi}.

Fife Council

'Public bodies should have a duty imposed on them to take leadership on this agenda, but must be given the role and resources to do so effectively.'

Highland Council

'The Highland Council would welcome such duties as it would ensure that each area in Scotland was contributing its "fair share" towards tackling climate change. However these duties must carry with them the necessary budgets to perform the re-alignments that will be required to deliver GHG reductions.'

Glasgow City Council

'Those measures are welcomed to ensure the action of public bodies is in line with national measures; however this can only be done with adequate funding support as well as guidance and capacity building.'

City of Edinburgh Council

'It is important that climate change mitigation and adaptation duties are placed on public bodies. Local authorities, in particular, are key to delivering reductions in emissions. However, adequate guidance and support will be essential'

The Convention of Scottish Local Authorities (COSLA)

'COSLA has no issue with the proposal to bring forward enabling powers so long as any duty imposed on the public sector to take specified actions on climate change or other specified environmental issues is backed up with the appropriate resources to enable those duties to be carried out.'

Councils called for the new climate duty to be accompanied with new resources. Friends of the Earth supports this call.

Next steps for the Scottish Public Bodies duty

Friends of the Earth Scotland are calling for improvements to the Public Bodies duty:

- For the statutory guidance to be subject to Judicial Review. This would allow councils did not adopt a target or action plan to be challenged
- Establish a scrutiny body to be established to evaluate council targets and plans against the ambition of the Scottish Climate Change Act and statutory guidance.

Conclusions: Energy Bill 2011

To meet UK Climate Change Act targets, transformational change is needed in communities across the UK.

England is moving backwards on this issue with the abolition of climate performance indicators for councils – where Scotland and other parts of Europe are forging ahead^{vii}.

The response to the Public Bodies Duty in the Scottish Climate Change Act shows that clarity about councils' role and required ambition on climate change is supported by councils when introduced.

In the Energy Bill 2011 the Government must ensure that every council in England does its bit to lead action in our communities on climate change – taking the lead from councils in Scotland.

Contact

Energy Bill:

David Powell, Economics Campaigner
Friends of the Earth England, Wales and Northern Ireland
020 7566 1614 / david.powell@foe.co.uk

For enquiries about the Climate Change Act Scotland

Francis Stuart, Policy and Parliamentary Officer
Friends of the Earth Scotland
0131 243 2701 / fstuart@foe-scotland.org.uk

ⁱ National Indicator 185 (local authority own emissions) and 186 (local area carbon emissions) were abolished along with the rest of the National Indicators in October 2010. Two-thirds of councils had set reduction targets for their local areas under NI186. Although it was too early to properly gauge progress, there is evidence that the existence of NI186 significantly increased the engagement of councils with local carbon leadership.

ⁱⁱ Climate Change Act (Scotland) 2009: <http://www.legislation.gov.uk/asp/2009/12/contents>

ⁱⁱⁱ The relevant Part (4) states: "A public body must, in exercising its functions, act: (a) In the way best calculated to contribute to the delivery of the targets set in or under Part 1 of this Act; (b) In the way best calculated to help deliver any programme laid before the Scottish Parliament under section 53 [climate change adaptation]; (c) In a way that it considers is most sustainable."

^{iv} Guidance: <http://scotland.gov.uk/Resource/Doc/340746/0113071.pdf>

^v (1) understand what's required; (2) assess what can be done locally; (3) take action, including political commitment, partnership working and integrating climate action across all activities; (4) seek out support and tools that are available; and (5) monitor, report and evaluate emissions.

^{vi} Responses to consultation on the Public Bodies Duty:

<http://www.scottish.parliament.uk/s3/committees/ticc/inquiries/ClimateChangeScotlandBill-responsetocallforviews.htm>

^{vii} For example, the EU Covenant of Mayors: www.eumayors.eu