

**SUBJECT: TO SCOTTISH GOVERNMENT'S CLIMATE CHANGE BILL:
CONSULTATION RESPONSE**
MEETING: FALKIRK COUNCIL
DATE: 30 APRIL 2008
AUTHOR: DIRECTOR OF DEVELOPMENT SERVICES

1. BACKGROUND

- 1.1 It is now accepted by the majority of the scientific community that carbon dioxide (CO₂) and other greenhouse gases are significant contributory factors to enhanced climate change.
- 1.2 The Westminster Government introduced a UK Climate Change Bill in November 2007 which proposes setting CO₂ related targets in statute and setting a limit on the total amount that can be emitted by the UK over a five year period (carbon budgeting).
- 1.3 The Scottish Government is working in partnership with the UK Government and the devolved administrations in Wales and Northern Ireland on the UK Climate Change Bill which will set a UK 60% reduction target for CO₂ emissions by 2050.
- 1.4 The Bill also seeks to establish an independent committee to advise on the level of carbon budgets, create enabling powers and reporting requirements. Following the Scottish Parliament's agreement in December 2007 to a Legislative Consent Motion, many of the provisions of the UK Bill, on enactment, will extend to Scotland.

2. SCOTTISH CLIMATE CHANGE BILL

- 2.1 On 29th January 2008, the Scottish Government published a consultation document which sets out proposals for a Scottish Climate Change Bill. This consultation seeks the views on options for the Bill and closed on 23rd April 2008. Officer's views as expressed in this report have been submitted subject to Falkirk Council notification.
- 2.2 Although the 60% emissions reduction target applies to the UK as a whole, in Scotland it is intended to go further by setting a higher target of 80% reduction by 2050. This is down to a view that Scotland's emissions, and the potential to reduce emissions in Scotland, differ from the rest of the UK. In particular there is considered to be massive potential for renewable energy production from wind and wave.
- 2.3 The objective of the consultation is to ensure that all interested parties have the opportunity to contribute their opinions at an early stage of policy development and as key stakeholders local authorities have been contacted directly and invited to participate in this process. Appendix 1 sets out proposed responses to the questions posed in the consultation document.

- 2.4 The next step will be consideration by the Scottish Government of the responses received and the publication of a summary and analysis over the summer. Following this the Bill will be drafted for introduction to the Scottish Parliament before the end of 2008.

3. CARBON MANAGEMENT IN FALKIRK COUNCIL

- 3.1 In the context of this response it is worth noting that in January 2007, Falkirk Council joined 31 other Scottish local authorities in signing up to the Scottish Climate Change Declaration. In doing so, it made a public commitment to establishing its carbon emissions, developing a programme of action, regularly reporting on progress and raising community awareness of climate change issues.
- 3.2 Following on from this, Falkirk Council took part in the Local Authority Carbon Management Programme 2007, producing a carbon reduction strategy and action plan which outlines how Falkirk Council might aim to reduce its carbon emissions by 20% over the next 5 years.

4. IMPLICATIONS

- 4.1 Policy: The response provided supports the aims of the Sustainable Falkirk Strategy, the council's environmental policy and corporate plan.
- 4.2 Legal: none
- 4.3 Financial: none
- 4.4 Personnel: none

5. RECOMMENDATION

- 5.1 That Falkirk Council approves the response to the Scottish Government's Climate Change Bill as appended to this report.

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Director of Development Services

Date: 22 April 2008

Contact Officer: Brenda Roddy, Sustainable Development Officer 504712

LIST OF BACKGROUND PAPERS

1. The Scottish Climate Change Bill 2008
2. Falkirk Council Carbon Reduction Strategy and Action Plan 2008
3. Scottish Climate Change Declaration 2007

Appendix 1: Falkirk Council: Draft Response to Scottish Climate Change Bill Consultation

Question	Response
<p>1. Should a Scottish target be based on carbon dioxide only or the basket of six greenhouse gases?</p>	<p>The Scottish target should be based on emissions from a basket of six greenhouse gases (GHGs). These can be measured (and communicated to the public and media), in the form of carbon dioxide equivalent (CO₂e), in line with the Kyoto Protocol targets.</p> <p>Whilst CO₂ emissions make up a greater proportion of Scotland's GHGs (80% of GHG emissions in 2005) and the data relating to CO₂ emissions is more robust than that for the other GHGs, the basket approach gives greater flexibility and range of measure available in reducing overall GHGs.</p> <p>Reductions in one GHG could subsequently result in an increase in another. A target based on all 6 gases would ensure that policies put in place would not create a shift in the composition of GHG emissions. The inclusion of the full suite of gases in the target should drive improvements in the accuracy of the emissions inventory.</p> <p>Particular emphasis should initially be given to reducing CO₂ emissions. Aviation and shipping emissions should also be included in any target set. Sectoral targets and indicators could also prove beneficial e.g. local authority area, the public sector, transport, waste etc.</p>
<p>2. Should the Bill contain provisions to alter which gases are included, for example if the reliability of data for a particular gas improves or if science changes in the future about which gases cause climate change?</p>	<p>The Bill should contain flexibility to include other gases in the future. It is essential, however, that any targets should incorporate all greenhouse gases from the outset in accordance with international climate change policies.</p> <p>Scotland's key objective should be to reduce all GHG emissions irrespective of the ability to measure success accurately. Action, sooner rather than later, is more important than presentational targets.</p>
<p>3. The Scottish Government wishes to ensure that the Bill gives</p>	<p>A GHG end user inventory should be used to reflect the measure of</p>

<p>sufficient incentives to invest in energy efficiency and renewable electricity. Should the targets be based on source emissions; an end-user inventory; or on individual targets for energy efficiency and renewable electricity? Do you have any other suggestions?</p>	<p>electricity and fuel used in Scotland. It is important that this method is also robust enough to accurately reflect the amount of renewable energy generated as well as exported energy. Individual targets for renewables may have a negative impact due to lack of flexibility of investment decisions and the changing economic/ technological factors likely to apply.</p>
<p>4. Do you agree that the Bill should allow the means of measuring the target to be changed through secondary legislation to reflect international developments or unforeseen consequences of the Bill?</p>	<p>Agree. The means of measuring the target should be subject to review if developments in scientific understanding on climate change make it clear that there are more effective methods. However, this would be subject to recommendation or approval by a wholly independent scientific body on the basis of changing accepted knowledge and/or consensus within the climate change lobby. Future international agreements may place additional requirements on the UK and therefore Scotland. In addition to this, accepted understanding of many aspects of climate change continues to develop, so it is appropriate that the Scottish Government has the facility to react to unforeseen developments.</p>
<p>5. Should the emissions reduction target take account of the abatement effort made by companies under emissions trading schemes? If so, how?</p>	<p>In principle, it is recommended that the emissions target should take account of the abatement effort made by companies under emissions trading schemes in order that Scotland measures actual emissions. It also recognises that failure to do so may negatively impact on a large section of the Scottish economy. However, councils may not have enough expert knowledge to determine the practical implications of this approach.</p>
<p>6. Do you agree that international credits should be counted towards Scottish targets? Should there be limits on credits counted towards Scottish targets?</p>	<p>International credits should count towards Scottish targets as this will allow the lowest cost methods of emissions reduction to be implemented. The use of trading schemes should involve a limit, to prevent it being used as a quick fix, or means of simply paying our way out of pollution, resulting in no reduction in emissions. Where credits have been used, these should be clearly set out in the reporting process and be clearly distinguishable from actual reductions in emissions.</p>
<p>7. Should the Bill allow the level of the 2050 target to be changed through secondary legislation? If so, should this only be</p>	<ul style="list-style-type: none"> • Yes, there is still scientific uncertainty on the most appropriate global target. As this is clarified, in the future, the Scottish target may require to

allowed on the basis of independent, expert advice, to reflect international developments or unforeseen consequences of the Bill? Should any changes to the target be limited to an increase in the target?	<p>be adjusted as appropriate. New international agreements on issues such as aviation/ shipping emissions could also have an impact.</p> <ul style="list-style-type: none"> • Yes, independent advice is absolutely essential. • No, targets should be fully flexible to meet unforeseen future circumstances but any changes should be on the basis of independent expert advice.
SUPPORTING FRAMEWORK	
8. What factors should be taken into account when setting the level of budgets?	Consider the 8 factors listed in the consultation document, however, the success of budgeting relies completely on the reporting and follow up processes. The emission for subsequent budgeting periods should always be lower than previous ones to ensure a downwards trajectory towards 2050. Robust reporting schedule and subsequent processes are essential to ensure that action can, and will, be taken in the event of the preferred emissions trajectory not being met. In addition to setting budgets, it is important that all sectors have clear and co-coordinated plans for making measurable and realistic reductions in GHG emissions. Sanctions and incentives should be used to reward performance.
9. How long should interim budget periods be?	5 years – since this matches the most common UK and international time periods. In addition, this budget period is short enough to allow changes to be made if it is found that policies/ investment frameworks are not being effective, but long enough to allow investment decisions on carbon reduction technologies to be made with confidence.
10. How many years in advance should emissions budget periods be set in order to provide sufficient time to develop infrastructure?	It is important that clear, unambiguous signals are given to industry and other emitters to allow for long-term planning. The setting of an interim point target (12-15 years ahead) would be extremely beneficial to industry, regulators, agencies and authorities in planning and agreeing infrastructure investment. Whilst it is correct to have an indication of future budget periods, budgets could probably only be realistically fixed for two successive periods with indicative budgets set for a third period subject to further consultation.
11. What should be the limit (in terms of absolute quantity or as	There should be a general policy presumption of zero borrowing. A 5%

<p>a percentage of the budget period) on the amount of emissions which the Government can borrow from a following budget period?</p>	<p>maximum, however, may be appropriate to meet unforeseen issues. It also makes sense that such a provision is available as it allows more effective economic decisions to be made as emerging technologies evolve.</p> <p>In such cases, however, appreciation must be made of the relative impacts of the timing of carbon savings as illustrated in figure 6, para 5.11, which deals with cumulative impact. For this reason, a climate change impact assessment must be used to justify the borrowing of allowances from future budget periods looking at the whole life costs of the decision. Transparency and accountability are essential, potentially backed by penalties and incentives.</p>
<p>12. Should the Bill include an interim point target? If so, what year (or years) should it be for (2020, 2025, 2030, etc.)? How should the level be chosen?</p>	<p>Yes, as this encourages early action resulting in lower cumulative emissions – suggest 2020 and 2030. Interim point targets will be useful markers towards ensuring that the 2050 target will be met and reduce the possibility of actions/funds that will be required to move to a low carbon economy being deferred.</p> <p>Consideration should be made of matching any interim target chosen with the appropriate international emission reduction schemes e.g. UK Climate Change Bill, EU Emission Trading Scheme and the Kyoto Protocol. This would allow for appropriate international comparisons to be made and provide guidance on whether Scotland's performance was adequate.</p>
<p>REPORTING SCRUTINY AND FRAMEWORK</p>	
<p>13. Should the Scottish Ministers be required to report on any other issues related to climate change in addition to the requirements already set out? If so, what and how often?</p>	<p>Support reporting on the options outlined in paras 7.6 and 7.7. Scottish Ministers should also be required to report on measures taken to protect carbon sinks. It is appropriate that issues such as embedded emissions be included to ensure that the Scottish public is aware that their consumption actions have an impact on global emissions. In addition, a wide variety of reporting requirements issued at different periods on matters such as policy impacts or energy efficiency could ensure that Scottish emissions levels were constantly kept in the public eye and that the full breadth of their sources was known by the majority of the Scottish population.</p>

14. Is a process of Parliamentary scrutiny the appropriate way of holding the Scottish Government to account if targets or budgets are not met?	Yes, but there should also be mechanisms in place for scrutiny of targets and budgets by both public and stakeholder organisations. Options might include use of Audit Scotland, the Sustainable Development Commission or the creation of a Scottish Climate Change Audit Organisation.
15. What should be the primary source of advice to the Scottish Government for setting emissions targets or budgets and why? Options include: the proposed UK Committee on Climate Change, a new Scottish Committee on Climate Change, an existing public body in Scotland, or the Scottish Government itself.	The UK Committee on Climate Change should be the primary advisory body. Every effort should be made to ensure that its reporting guidelines ensure that Scotland's (and all devolved administrations') particular circumstances are recognised, acknowledged and reported on. A new Scottish Climate Change Committee could prove to be a duplication of effort unless it was closely aligned with or an adjunct of the UK Committee which will very probably involved the most experienced selection of experts.
16. If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?	If an existing public body had to be used, the Scottish Environment Protection Agency could offer existing expertise from its current role in air quality management. The Sustainable Development Commission might contribute with regard to advice and scrutiny. These two organisations, however, are very unlikely to be able to meet the full level of expertise required. The success of such an approach would require new resources to be made available along with a duty on all relevant bodies to co-operate with the reporting agency.
17. Which organisation should be tasked with monitoring the progress of the Scottish Government on reducing emissions and why? Options include: the proposed UK Committee on Climate Change, a new Scottish Committee on Climate Change, an existing public body in Scotland, or the Scottish Government itself.	The UK Climate Change Committee with a review after 3 years. If it were found upon review that there was a need for a more localised focus, then an existing public body in Scotland could be tasked with this role.
18. If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?	See answer to question 16.
19. Should additional independent mechanisms for scrutinising the effectiveness of the Scottish Government's policies in	See answer to question 14.

reducing emissions be created by the Bill (in addition to any scrutiny already provided by the Scottish Parliament)?	
20. If so, which organisation is best placed to carry out this function and why? Options include a new Scottish Committee on Climate Change or an existing public body in Scotland.	There is currently no existing organisation in Scotland that could carry out this role independently. Audit Scotland does not currently have adequate in-house specialist knowledge of climate change issues. Any potential scrutineer would have to be financially independent of the Scottish Government. The independent scrutiny would be best delivered by a dedicated body e.g. the Committee on Climate Change.
21. If it were to be an existing Scottish public body, which public body is most suited to carrying out this task and why?	An alternative to a Scottish Climate Change Committee would be to set up a scrutiny function within bodies such as Audit Scotland or the Sustainable Development Commission Scotland. Again, success of such an approach would require new resources to be made available.
22. Are there any other functions related to climate change, existing or new, which should be carried out at arm's length from the Scottish Government and why?	<p>Community planning partnerships could be given a statutory duty to make a substantial contribution to Scottish climate change targets.</p> <p>Public procurement of buildings – a duty to ensure high energy efficiency and low carbon use in all new public buildings would encourage best practice amongst the public sector and the design and construction industry as well as reinforcing emerging European directives and business regulatory legislation.</p> <p>Carbon capture and storage – a package of measures is required that not only looks at new storage mechanisms such as carbon captures and storage, but also at retaining intact, wherever possible, existing natural carbon stores e.g. peatland, & woodland.</p>
SUPPORTING MEASURES	
23. Should the Bill contain enabling powers to introduce a duty on certain parts of the public sector (i.e. local authorities and large public bodies) to take specified actions on climate change or other specified environmental issues? Why?	Yes, the Bill should contain enabling powers to introduce a duty on public sector bodies, notably local authorities and their community planning partners. Due to the ambitious nature of the Scottish Government's carbon reduction target, it is unlikely that existing guidance alone will prove effective in achieving the behavioural / organisational changes required. Any such duty/ies to take specified actions on climate change or other environmental

	<p>issues should be fully resourced from central government to enable those duties to be carried out.</p> <p>Introduction of a duty would create an opportunity to ensure that the commitments in the Scottish Climate Change Declaration are embedded in legislation. This, however, raises the question of who would monitor any such duty?</p>
24. What should such a duty (or duties) include?	<p>A 'Climate Change Impact Assessment' should be introduced as a duty for local authorities or public bodies. This should be a quick and simple, national scheme where all LA actions, large and small, are assessed on their likely climate change impacts. The results of this assessment should be included in all local authority committee reports and noted in all council minutes.</p> <p>Councils should have a duty to produce a climate change strategy and action plan, incorporating commitments made through initiatives such as the Scottish Climate Change Declaration and the Local Authority Carbon Management Programme, as well as a programme of emergency planning risk assessments dealing with the potential effects of climate change on the council area.</p>
25. Should the Bill contain enabling powers to introduce statutory guidance for certain public sector bodies (i.e. local authorities and large public bodies) on specified climate change or other environmental measures? Why? Are there gaps in any existing guidance?	<p>Yes, whilst existing guidance may address, specifically or indirectly, many climate change issues, there does not appear to be a single statutory guidance vehicle summarising or linking them all. This would be useful as joined up action on different aspects of climate change issues is not always carried out. Whilst specific gaps in knowledge may not exist, inappropriate actions could go ahead as public organisations may not have a full understanding of all of the links and consequences of their actions or day to day business. A summarising guidance could address this.</p> <p>Guidance should also demonstrate how procurement rules should take account of whole-life costs as currently too much emphasis is placed on capital costs alone.</p>
26. What should this guidance include?	<p>The guidance would summarise all climate change issues from planning policy documents, national and devolved legislation, into one vehicle.</p>

	<p>Procurement guidance would play a key role by helping to ensure that climate change and sustainability are at the forefront of purchasing decisions (including the procurement of buildings).</p> <p>Specific guidance on preferred carbon accounting or decision making tools might be useful.</p>
<p>27. Should the Bill contain enabling powers to create a requirement for certain public sector bodies (i.e. local authorities and large public bodies) to make regular reports on specific measures they are taking to tackle climate change (whether mitigation or adaptation) or other environmental issues? Why? What should be included in such reports?</p>	<p>There should be an annual reporting requirement on the public sector, with a clear view on who will receive and consider these reports and how these will be used to assist policy development.</p> <p>Local authorities should have a duty to produce a climate change strategy and action plan, incorporating commitments made through initiatives such as the Scottish Climate Change Declaration and the Local Authority Carbon Management Programme, as well as a programme of emergency planning risk assessments dealing with the potential effects of climate change on the council area.</p> <p>Yes. Such a requirement should follow any national standards or reporting mechanisms that are introduced. This reporting would ensure that all local authorities will give this issue the level of importance that it merits.</p> <p>This would also allow assessment and comparison of actions taken by all Scottish local authorities and highlight which were most successful or committed to this issue. It could also show if other local authorities face particular issues preventing action e.g. social exclusion.</p> <p>The current Scottish Climate Change Declaration reporting mechanisms and requirements are suitable, robust and could be formalised and reported upon on a regular basis. The Declaration should be extended to all public sector bodies. This would help to formalise reporting requirements and enable a standardised reporting format across all public sector bodies.</p>
<p>28. As a potential non-legislative measure, should current Best</p>	<p>The current Best Value guidance could be strengthened to include the</p>

Value guidance be amended to take specific account of climate change mitigation and adaptation? If so, how should Best Value guidance be amended?	<p>requirements of the Scottish Climate Change Declaration. Audit Scotland, however, lacks the specialist knowledge required to check compliance and would require to work in partnership with another organisation (independent audit body/SEPA), to operate this new requirement effectively.</p> <p>There is uncertainty or disagreement on the effectiveness of the existing Best Value guidance in supporting sustainable development so legislative measures are likely to be more effective and provide better results.</p>
29. Are there any amendments to existing legislation or any enabling powers needed to allow for variable charging (for example by local authorities) to incentivise action or eliminate perverse incentives?	There already exist sufficient powers for variable charging e.g. waste, transport, parking and business rates. Issues such as local political pressure or sensitivities might be partially to blame for a lack of evidence of effectiveness in this approach to date.
30. Are there any provisions to help Scotland adapt to the impacts of climate change which should be included in the Scottish Climate Change Bill?	<p>The Scottish Climate Change Bill could include provisions to support sustainable construction, energy efficiency, flood prevention, climate change orientated emergency planning, limiting primary biofuels and renewable energy.</p> <p>Adapting to climate change creates huge opportunities for business as acute services are required and as new skills, processes, financial and other services and technologies are required. There should be provision for an assessment of the business opportunities arising from adapting to climate change. This would provide a role for enterprise agencies to engage in climate change and would provide a link to the critical role of the business sector.</p>
31. Should provisions within the Environmental Assessment (Scotland) Act 2005, be amended in order to provide clearer links with emissions reduction? If so, how should this be done?	Yes, although if a climate change impact assessment (see question 24) was introduced, then this might not be required. It is, however, noted that there is no framework of enforcement associated with the existing Environmental Assessment (Scotland) Act 2005.
32. What are the equalities implications of the measures in the proposals for the Scottish Climate Change Bill?	Potential adverse effects could be created for those living on low incomes if green taxes or levies were introduced. It is therefore suggested that an equality impact assessment be undertaken for the Bill.

<p>33. Is there any existing legislation within the competence of the Scottish Parliament (devolved) which needs to be amended so that appropriate action on climate change can be taken by sectors in society?</p>	<p>There is no existing legislation within the competence of the Scottish Parliament (devolved) which it is determined should be amended at this time.</p>