NPF SUBMISSION

ENVIRONMENT RESPONSE
POLICY CONSULTATION: A GREEN AND DIGITAL FUTURE
SUBMITTED BY: THE SOCIETY OF LABOUR LAWYERS ENERGY AND ENVIRONMENT GROUP
AUTHORS: DR EWAN MCGAUGHEY
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1. How can science and technology policy support growth in all regions and nations of the UK?

There is a universal right 'to share in scientific advancement and its benefits': UDHR 1948 article 27 and ICESCR 1966 article 15. This came directly from the experience of the Roosevelt government in the New Deal, and its policies to electrify rural America and distribute the polio vaccine to everyone – two things that private business failed to do: L Shaver [2010] Wisconsin Law Review 121. Without proactive, mission-oriented, government policy, private investment and enterprise tends to concentrate into cities and other hubs as a way to reduce transaction costs and take advantage of network effects. Regions and smaller communities tend to be deprived as a result, leading to lower social or economic growth overall.

To combat this phenomenon, a key post-war regional policy, pioneered by Labour, was the Distribution of Industry Act 1945. This empowered government to create development areas, 'to promote a healthy and well-balanced industrial life in all parts of the country': Hansard HC Debs (21 March 1945) vol 409, col 821. This followed the White Paper on *Employment Policy* (1944) Cmd 6527, which made the simple point that to achieve full employment in the face of volatile private and international investment, government had to commit to invest where and when that was lacking. This is often thought of as Keynesian 'counter-cyclical' spending policy, but in fact the evidence shows that the spending was very little (and that 'cycles' are anything but inevitable). Once government promised to maintain investment, this in itself kept up private sector confidence and investment through the post-war era: RCO Matthews (1968) 78(311) Economic Journal 555. See further discussion on employment and technology in E McGaughey (2022) 51(3) Industrial Law Journal 511.

Today, government policy on science and technology can best support growth in social and economic development if we ensure the assets and finance for production are broadly equally distributed. First, education, health and housing spending are major factors in the prosperity of towns and local communities, as much as in larger cities. While private capital, left to itself, concentrates into the cheapest networks, public spending on universities and schools (and indeed adult or technical learning or pre-school care), on hospitals and GP surgeries (and indeed elderly or disabled care), and on building well-insulated affordable homes, can be directed evenly to the places where people live. Universities and hospitals, in particular, are the main centres for science and technology. Ensuring that students may learn tuition and debt-free, at least up to an undergraduate degree level, will drive up investment, and counteract the wealth discrimination (and indirect race and gender discrimination) effects of privatised education. Ending outsourcing of competence and resources from the NHS, and 'insourcing' elderly or disabled care, will also support growth. A new mission to insulate every home, and retrofit each with clean heating and solar generation, starting with social housing, and placing similar duties on corporate landlords, is a prime example of spreading the benefits of scientific advancement.

Second, private enterprise relies upon networks that are often natural monopolies, and in most wealthy countries entrusted to public management. Access to cheap banking, clean energy, water, clean transport, communications (mail and fast internet), local media, and marketplaces (including through fair rules on Amazon, Google shopping, search and maps) are all essential components in the finance and assets for production by competitive enterprises. All of these services involve the benefits of scientific advancement, but they are unlikely to be distributed equitably without public policy ensuring it. Each requires a detailed discussion but two overarching reforms can be highlight. First, the regulators in each sector (the Bank of England and FCA, OGA, Ofgem, Ofwat, ORR, Ofcom and the CMA) should have revised goals to ensure regional development, and clean energy, in particular by ending all gas, oil and coal or other GHG emission sources. Second, the pledge for 'common ownership' in 'rail, mail, energy and water' should be implemented strategically, so that it is clear to voters what the metrics for improvement will be, for instance, electrified rail, an electric Royal Mail fleet, zero fossil fuels in energy, and clean bathing and drinking water. The goals should be to provide these services at lower cost and with higher, fairer wages for staff. The same approach should go for bus services, regional BBC or Channel 4 services, while strong consideration should be given to green investment banks and a public option retail bank network.

Third, agricultural policy has been central to rural development. Under the EU's Common Agricultural Policy, rural development accounted for 22.5% of its budget in 2023, while the CAP has been about one third of the EU's whole budget. This money is used, for example, for training programmes, clean electricity, clean transport, and high speed internet. The Agriculture Act 2020 section 1 confers wide discretion on the Secretary of State to 'give financial assistance' for a range of environmental purposes under the (largely undefined) slogan of 'public money for public goods'. One of the purposes is to improve the 'health or welfare of livestock', but no mention is made of the 'health or welfare of people' living in rural areas. Agricultural policy should be amended to require that people can access to the benefits of science and technology, such as cheap clean energy, transport and communications, and that all payments to farming corporations, landlords or employers come with a duty for workers to be paid fair wages. In England, the Agricultural Wages Board could usefully be restored. Raising pay will be one of the fastest ways to promote growth.

2. What role does the digital economy have in enabling the UK's growth?

Fast fibre-optic internet, as opposed to slow copper cables, enables people to live and work more remotely, and will spread the distribution of income, wealth and growth more equitably throughout the UK. The UK's primary infrastructure corporation, Openreach, is structurally separated but still owned by BT plc. Given the enormous public investment in upgrading to fibre-optic networks and 'gigabit broadband' by 2030 (an ambition which is somewhat slow), it makes sense that government takes the upside from building web infrastructure when it bears the cost. Thus, an equity stake in part or full should be considered.

In addition, Amazon, Alphabet, Meta and Apple hold dominant positions in online marketplaces, and are currently subject to EU legal action in a range of ways. Third party sellers are increasingly reliant on Amazon marketplace, Google Shopping, and multiple platforms and services of Alphabet, Meta and Apple, particularly searches and maps. These systematically discriminate against traders in favour of the platforms' own products, and downgrade the visibility of businesses that do not pay the platforms to advertise, much like paying 'protection money' to the mob. First, the Competition and Markets Authority should prevent this, immediately, using its powers to halt the abuse of a dominant position. Second, there should be structural reform by Parliament to ensure that traders have governance voice in the management of platforms, and control over data. There are a range of examples in online marketplaces, but one of the best was in fact the Covent Garden Market Act 1961 Schedule 4, which required that traders and suppliers at the market had rights to elect the management committee, with whom the market authority was bound to consult. An analogous reform should be imposed on big tech platforms in order to protect the autonomy, viability and data of British businesses.

3. How can improvements to transport deliver growth across the country, including in rural areas?

Most of the UK is underserved by both privatised rail and buses, in stark contrast to London where, for example, the GLA has kept control over fares and timetabling and has always retained the option to take buses into public ownership. First, Labour's policy of taking rail into public ownership as franchises expire, and the policy to enable authorities to start bus routes, and set fares, are important steps (essentially replacing the absurd bans on UK public ownership in the Railways Act 1993 s 25 and Bus Services Act 2017 s 22). Second, all new buses should be electric, while all existing private corporations should have strong duties to electrify their fleets and tracks at a high rate, such as 25% per year. Third, all contracts should require the payment of fair wages, because ensuring all transport staff around the country are paid fairly is the most direct way of delivering growth. Fourth, fair transport fares will reduce business, commuter and passenger costs, and free up spending for economic growth.

4. What policies can help deliver Labour's existing pledges on green growth, particularly the Green Prosperity Plan?

To recap, the Green Prosperity Plan, first announced at Fabian conference on 21 January 2023, includes pledges of £28bn a year for green jobs such as insulation, at least a million new jobs in total, lower bills (up to £1400 less a year), world-leading clean energy, vehicles, hydrogen power, 100% zero carbon electricity through GB Energy in 2030, and doubling onshore wind, tripling solar, and quadrupling offshore wind. It also promises to embed 'net zero' throughout the energy system, reduce planning decision times from years to months, and ensure that the grid (currently monopolised by National Grid plc) connects clean capacity.

A full list of policy and law reform options is in the Table below, for energy, transport, agriculture, buildings, banking, enterprise law, and trade.

Four are worth highlighting here:

- to ensure 'green growth', it is essential to update the Treasury and Bank of England's use of 'Gross Domestic Product', and instead use a measure of growth based on positive objective factors. GDP counts as positive any trade of a good or service at market prices, no matter how much pollution or greenhouse gas emissions there are (or indeed harms to human health, public services or the democratic process). For example, GDP would grow significantly if we privatised all education through vouchers and unlimited fees, privatised the NHS and shifted to an insurance system, sold all national parks and areas of outstanding natural beauty, sold the BBC, and so on, because there would be new traded market prices. Perversely, good public services, and a clean environment, are bad on a GDP growth measurement. One option could be to use the Inequality-Adjusted Human Development Index as a metric, but replace its use of GDP with real wages (alongside years in education and life expectancy, all adjusted for inequality). Another more limited option could be to discount from GDP all activity that creates pollution, and particularly all gas, oil and coal business, in the same way that sale of illegal goods and services are discounted. This should be written into law, like in the EU;
- as mentioned above, all existing regulators and public services should be given an explicit statutory mission to eliminate fossil fuels and polluting practices, as well as promote regional development and full employment at fair wages;
- reform to the Companies Act 2006 should include duties on all boards of directors to adopt clean energy, and include workers in their board of directors. Along with Labour's plan in *A New Deal for Working People* (2022) for sectoral collective bargaining and fair pay agreements, and along with a pro-active state, worker voice in corporate governance is among the surest ways to raise pay, increase labour's share of income over time, and so promote growth. A good model is the Pensions Act 2004 sections 241-243 which required one-third of pension trustees or directors to be beneficiary-elected or union nominated. This threshold may be raised to one-half by the Secretary of State. The same approach can be used for workers on corporate boards, to bring Britain up to wealthier countries' standards.
- to reorient finance, we should extend the Pensions Act 2004 sections 241-3 to *all* pension and other capital funds, and require that their boards have at least one-half of the directors elected by the real investors. All asset managers, banks and other financial institutions to whom they delegate investment services should be required to follow the shareholder voting policy and instructions set by elected representatives, particularly on environmental, social and governance issues. This will ensure the preferences of the real investors will prevail. We should also require that all financial

institutions end fossil fuel investments, to boost investment in clean energy, worldwide.

5. What policies can help contribute to the four missions outlined in Labour's industrial strategy?

Labour's four industrial strategy missions are clean power, elderly and preventative care, harnessing data for the public good, and building a resilient economy. Clean power is addressed above and in the Table below, and the same reforms will ensure the economy is resilient – in the sense of being able to absorb the likely increase in shocks from global climate and political crises. Fossil fuel price volatility was at the heart of the OPEC crisis in the 1970s, and again today since 2022. Once fossil fuels are replaced with clean power, a primary source of inflation and our economic dependence on dictatorships will be removed. Reducing our supply chain dependence on dictatorships more broadly requires greater integration with the EU. To care for the future, the NHS should be given an expanded role, and have powers to devise and implement public health policies, such as regulation of food and drinks, or halting air pollution.

To harness data for the public good, the abuse of dominance by the big tech corporations – Alphabet, Meta, Amazon and Apple – needs to be addressed. Most importantly, we should explore the possibility of publicly funding independent data storage, search engines, social media networks, webvideo, maps, basic email, and online marketplaces, for instance, in collaboration with the Wikimedia Foundation or the OpenStreetMap Foundation. The goal would be to improve and properly fund social option alternatives to big tech, which do not depend upon profit-driven data surveillance and ads. This could be done in cooperation with other democratic countries, but be operationally independent from any state.

6. What are the specific implications of policy proposals in this area for (a) women, (b) Black, Asian and minority ethnic people, (c) LGBT+ people, (d) disabled people and (e) all those with other protected characteristics under the Equality Act 2010?

The Equality Act 2010's system of protected characteristics is fundamental to our democracy, but it does not yet include measures to stop discrimination on the basis of income or wealth. Disparities income and wealth result in indirect discrimination on the basis of sex, race, sexual orientation and disabilities as a matter of economic structure. We generally accept that education and health should be accessible freely at the point of use, and funded through fair tax, not forced fees (although we have not yet removed tuition fees for a first university or college degree). We simply need to look to the United States to see the vast discriminatory effects of privatised health care and nearly unlimited fees for higher education, which results in an exact match of college entry and parental income. This is why free education and health, as universal human rights, are so important.

We may extend this principle of universality further, particularly as marginal costs of many networks decrease through technological development, to provide an increasing number of 'universal basic services'. This could begin to include basic banking, transport, energy, water, communications and media. In limited ways many of these services are already free, for instance, free bus travel for children and pensioners, or free TV licences. Wherever the overall cost of fair tax and free provision is lower than service provision through a price system, there is a strong case for a universal free service. The more we take services out of the price system, the more we support equal opportunity and more equal outcomes for everyone.

7. What consideration would need to be given to policy proposals in this area when collaborating with devolved administrations and local governments in England, Scotland, Wales and Northern Ireland?

In contrast to Scotland, Wales, Northern Ireland and (to a lesser extent) London, the regions of England have an absence of voice, and political autonomy. It is not necessary to have a referendum to establish regional assemblies. Political "buy-in" could be guaranteed, for instance, by requiring that the first assemblies are composed of already-elected local councillors in that region (for instance, the cabinet members of each council) before an election in 2 years time. In this interim start-up phase, the beginning of new delegated powers (for instance over local education, transport, energy, water, NHS spending, certain taxation powers, certain labour rights powers, and so forth) could be allotted. The principle of social democracy is that regional governments may have standards that can be more favourable, or go higher, than national standards, but not lower. Careful work should be done to harmonise powers across different assemblies, in contrast to the current mismatch between London's very limited powers, and Scotland's very broad powers.

Table of policy options for 100% clean energy, as fast as technology allows

Policy field	Clean energy policy and law reform	Legal change location
Energy	A duty on the Gas and Electricity Markets Authority (Ofgem) to eliminate fossil fuels in generation and distribution as fast as technology allows.	Electricity Act 1989 s 3A(1A) and Gas Act 1986 s 4AA
	All holders of electricity supply licences must eliminate fossil fuel use at a rate of 25% per year.	Electricity Act 1989 s 6

	The feed-in tariff rate for small scale energy producers should be set at no less than 80% of the market price charged by a supply licence holder to its average customer.	Energy Act 2008 s 41
	A duty on the Oil and Gas Authority to phase out all fossil fuel extraction, with exceptions for national security needs (not 'maximising economic recovery' of oil).	Petroleum Act 1998 s 9A
	A duty of the Coal Authority to cease all extraction, unless there is an exceptionally compelling national security need.	Coal Industry Act 1994 s 2(1)
	Prohibition of advertising by companies with significant fossil fuel assets, and for all fossil fuel products with strict exceptions.	Communications Act 2003 s 321(1)
	Raise the petroleum revenue tax to 100% of profits.	Oil Taxation Act 1975 s 1(2)
	Secretary of State shall bring proceedings and petition for winding up existing fossil fuel corporations on grounds of the public interest, and hold assets as strictly necessary in the interests of national security, while converting infrastructure to clean energy.	Insolvency Act 1986 s 124A and Companies Act 1985 s 432(2)(a)
Transport	Remove tax deductions for vehicles running on petrol or diesel wherever there is a cheaper electric alternative.	Capital Allowances Act 2001 s 104AA(4)
	A duty of the Office of Rail and Road to decarbonise all transport as fast as technology allows, and build a comprehensive bus and rail network to reduce individual vehicle reliance.	Infrastructure Act 2015 s 12(2) and Railways Act 1993 s 4(1)
	A duty on railway companies and track owners to electrify 25% of remaining unimproved track each year.	Railways Act 1993 s 9
	Enable public sector operators within the UK to run railways, rather than only public sector operators from abroad.	Railways Act 1993 s 25

	Regional or local authorities to establish electric or clean bus networks to meet demand.	Bus Services Act 2017 s 22(1) and Public Passenger Vehicles Act 1981 s 4C
	Requirement for all taxis and private hire vehicles to have zero emissions as a licence condition, and for existing fossil fuel vehicles to be phased out.	Private Hire Vehicles (London) Act 1998 s 2, Town Police Clauses Act 1847 s 37, and Local Government (Misc) Act 1976 ss 47-48
	Golden share in automobile manufacturers to guide transition in all production to zero emissions.	Companies Act 2006 s 38A
	Duty on all petrol stations and large retailers to install electric charging points.	Automated and Electric Vehicles Act 2018 s 11
	Close air travel routes wherever total transport time by rail or road is faster or equal.	Civil Aviation Act 2012 s 107A
Agriculture	A duty on the Secretary of State to end fossil fuel use in agriculture, supermarket and large store products.	Agriculture Act 2020 s 1A
	A duty on the Secretary of State to maximise absorption of greenhouse gases, native forests and biodiversity on land.	Agriculture Act 2020 s 1B
	Traffic light labelling on all products for greenhouse gas emissions created in production: red, amber and green.	Food Safety Act 1990 s 7A
	Eliminate plastic packaging and clothing in supermarkets, by retailers and manufacturers.	Food Safety Act 1990 s 7B
Buildings	A duty on Secretary of State to replace all gas heating with electric or heat pumps.	Housing Act 2004 s 10A

	A duty on Secretary of State to insulate all public, then rented, then private homes, to ‘A’ efficiency ratings, at a rate of 25% per year.	Housing Act 2004 s 10B
	Requirement of all new buildings to be fitted with solar panels and battery equipment.	Housing Act 2004 s 10C
Banking	Clarify that ‘price stability’ requires ending the finance of, holding investment in, and use of fossil fuels, as a major cause of inflation.	Bank of England Act 1998 s 11
	Replace ‘Gross Domestic Product’ as a measure of success in Bank of England and Treasury operations with objective criteria, such as the Inequality-Adjusted Human Development Index, with real wages substituted for GDP.	Bank of England Act 1998 s 11A
Enterprise law	Clarify that the duty of care on directors includes replacing equipment using fossil fuels with clean equipment wherever the total cost of ownership is lower.	Companies Act 2006 s 174
	A duty on all financial institutions to divest fossil fuels.	Financial Services and Markets Act 2000 s 1B
	Financial intermediaries must cast votes according to the policy and instructions of elected representatives of the fund’s ultimate beneficiaries, including split voting in pooled funds, on environmental, social and governance issues.	Financial Services and Markets Act 2000 s 1C
	Pension fund trustees or directors shall be at least one-half elected by its beneficiaries, regardless of the legal form of the pension as a trust, corporation or contract.	Pensions Act 2004 s 243(1)-(2)
	A company’s general meeting must have at least one-third of votes cast on an equal basis by company group employees. At least one-third of directors are to be employee elected. The Secretary of State may raise this to one-half. Employees are to be considered company members with equal rights.	Companies Act 2006 ss 8, 113, 284-5

	Agreements among competitors to decarbonise production as fast as technologically possible are exempt from controls on cooperation provided they are fully disclosed.	Competition Act 1998 s 3(1A)
	Consumers and buyers have a right to products of 'lasting and durable' quality (not 'satisfactory') to reduce throughput.	Consumer Rights Act 2015 s 9 and Sale of Goods Act 1979 s 14
	Companies are liable for climate damage in tort where significant fossil fuel emissions have contributed to global warming, and this contributes to injury or loss of property.	Clean Air Act 1993 s 3A
	Companies are liable for criminal damage where they have released greenhouse gas emissions intentionally to make a profit, and this contributes to injury or loss of property.	Criminal Damage Act 1971 s 1A
	Investment in fossil fuel infrastructure, except where authorised for national security, is a criminal offence.	Criminal Damage Act 1971 s 1B
Trade	A duty of Secretary of State for Foreign Affairs to negotiate international agreements for elimination of gas, oil and coal.	International Development Act 2002 s 1A
	A duty of Secretary of State to negotiate for progressively raising environmental and labour standards.	International Development Act 2002 s 1B
	A duty of Secretary of State to minimise military movements, so far as national security allows, and negotiate a phased transfer of military spending into clean energy.	International Development Act 2002 s 1C
	Withdraw from the Energy Charter Treaty.	Act of Foreign Secretary and Parliament