

How ready is the legal and governance framework in the United Kingdom to meet the challenge of climate change?



Sectoral summary: Local Government Law

Q1: Is climate change expressly recognised in the legal framework for local government?

Yes, but to varying degrees and varying levels of specificity across the UK.

In Scotland, section 44 of the Climate Change (Scotland) Act 2009 imposes “climate change duties” on local authorities, including the duty to exercise their functions in the way best calculated to contribute to the delivery of the net zero and interim emissions targets set out in that Act. By article 3 of the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015 each local authority is required to send an annual report on its compliance with these climate change duties to the Scottish Ministers.

In Wales, section 3 of the Well-being of Future Generations (Wales) Act 2015 requires local authorities to carry out sustainable development by taking action, in accordance with the sustainable development principle, aimed at achieving the “well-being goals”. The well-being goals include a low carbon society, and acting on and adapting to climate change. Further provision is made in section 3A of the Climate Change and Sustainable Energy Act 2006 for local authorities in Wales to have regard to climate change measures reports published by the Welsh Ministers, but this has not yet been brought into force.

There are no equivalent overarching legal obligations applying directly to English or Northern Irish local authorities. However, Climate Change (No. 2) Bill is currently before the Northern Ireland Assembly. The most recent draft confers a power to impose climate change reporting duties on public bodies, including local authorities.

More locally, in London, section 361A of the Greater London Act 1999 imposes a duty on the Mayor of London and the London Assembly “to address” climate change, so far as it relates to Greater London.

In addition to the above, climate change is addressed directly in a number of specific areas, in particular, planning, building standards and housing.

Q2: What are the main issues arising from climate change for the sector?

The Committee on Climate Change has published a [report](#) focusing on Local Authorities, which identifies that the Sixth Carbon Budget will only be achieved if Government, regional agencies and local authorities work together. It has called for coherent policies aimed at local authorities and powers to be given to local authorities to facilitate delivery of net zero.

In the [Net Zero Strategy](#) published in October 2021, the government accepted that there are currently no net zero statutory targets on local authorities, but it did not believe that a new general statutory requirement was needed. However, the Strategy recognises “*that there is a real need to ensure local leaders across the board are supported by enhancing the capacity and capability of local areas to deliver net zero, coordinating engagement with local authorities, and clarifying expectations at a national level to accelerate local progress towards net zero.*” (pg 263). The Strategy provides that Department for Business, Energy and Industrial Strategy (BEIS) will take overall responsibility for improving coordination with local government and other local actors on the effective design and delivery of local net zero policies through a Local Net Zero Forum which will be chaired by BEIS.

It is important to recognise the fundamental role of local authorities in regard to climate change and net zero. The Climate Change Committee finds that around one-third of the UK’s emissions are dependent on sectors directly shaped, or at least influenced by, local authority practice, policy or partnerships. The UK Government went further in the Net Zero Strategy, stating that of “*all UK emissions, 82% are within the scope of influence of local authorities.*” One can easily see why that is the case given their role as planning authorities, procurers of products and services, and land-owners with significant building stock.

Vulnerabilities, challenges and opportunities associated with climate change can be broken down into the following areas and public functions:

- In their role as **landowners**: local authorities need to consider how to manage their land and buildings. Issues include sources of energy and its use, energy

efficiency of housing stock, insulation, flood risk and responses to extreme weather events, avoidance of waste, use of sustainable materials etc, as well as the appropriation of land to a new purpose.

- Maintenance of **public spaces**: resilience to changing weather patterns in choice and quantities of trees and other vegetation; irrigation regimes in areas of water shortage.
- **Planning and building control**: delivering sustainable development supported by appropriate infrastructure.
- **Waste collection**: encouraging a circular economy.
- **Finance**: procurement decisions and grant funding decisions.
- **Education**: as for housing, the quality of school buildings and sports facilities.
- **Transport**: charging points, public transport fleet, cycling paths etc. This is especially pertinent seeing as, in England, local authorities determine local transport policies and objectives with responsibility for 98% of publicly owned roads.

In summary, local authorities have *powers* to contribute to carbon reduction (transport, built environment, energy generation, waste & water and consumption), carbon removal (sequestration, capture, offsetting) and climate change adaptation/mitigation. However, they are not guided or mandated by central government to achieve particular goals within the identified areas.

Q3: What initiatives are taking place within the sector to further the goal of achieving Net Zero and how might other sectors learn from that?

Local authorities are not under a direct statutory duty to reduce emissions in line with the Climate Change Act 2008, however most local authorities are actively undertaking voluntary steps to achieve net zero. It is difficult to obtain a clear picture of what local government has achieved so far given the varied approaches – both in terms of substantive initiatives as well as reporting.

One important overarching initiative undertaken by the Greater Manchester Combined Authorities, working with the Tyndall Centre for Climate Change Research at the University of Manchester, is the publication of estimated carbon budgets for every local authority area in Britain. They are freely available via the [Tyndall Carbon Budget Tool](#), and allow authorities to see budgets for individual authorities and for combined authorities. The budgets explain how greenhouse gas emissions have been allocated fairly between authorities (taking into account, for example, that some authorities have within their boundaries, greenhouse gas intensive uses such as airports). They also show a net zero pathway for each authority. These are potentially powerful tools, particularly in areas such as planning decision-making, where the greenhouse gas impact of proposed development can be assessed in relation to the local authority carbon budget in order to evaluate significance of impact.

It is not possible to capture all the innovative and inspiring initiatives across local government in this brief note; however, some further positive examples are noted below:

- **Making declarations**: Over 90% of local authorities are estimated to have adopted at least one commitment to decarbonise in line with net zero. Nottingham City Council has set itself a target to become the first carbon neutral city in the UK by 2028, devising a 'carbon neutral charter'. Some local authorities have combined declarations with renewable energy initiatives. Swindon Borough Council set itself a target to become carbon neutral by 2030, and introduced solar farms to boost access to renewable energy, with profits used to support the local community.
- **Developing toolkits to incorporate net zero into specific sectors**: Cotswold District Council, West Oxfordshire District Council and Forest of Dean District Council are collaborating on building a net zero toolkit for the housing sector, covering both new builds and retrofitting. The project is funded by the LGA Housing Advisers Programme, and the project itself was a response to the many queries received by the councils from small developers, architects, and householders on achieving net zero in housing.
- **Adopting carbon saving programmes for local government assets and operations**: There are a number of initiatives in this regard. For example, Lancashire County Council has undertaken a county wide conversion of its streetlights to energy saving LEDs, while Swale Borough Council has invested in a new electric vehicle fleet. Forest of Dean District Council has installed a solar photovoltaic renewable electricity system in the council building.
- **Adapting local transport**: Oxford City Council is introducing the country's first zero emission zone after finding breaches of local air pollution levels. A pilot area is set to launch in 2022.

Specifically, in Wales, there is a significant example of success where local and central government work together. A number of local authorities, working with the Senedd, have used target setting and infrastructure funding to make Wales third in the world in 2020 for recycling, with a recycling rate of over 65%, avoiding 403,000 tonnes of CO2 in 2019/20. In 1999, Wales recycled less than 5% of its municipal waste. This shows what can be achieved through co-ordination between central and local government.

Q4: What initiatives are taking place within the sector to adapt to climate change and how might other sectors learn from that?

While approaches remain varied (as with Q3), there is a substantial amount of available information on the local government initiatives focused on climate change more generally. Again, it is impossible to capture the full breadth of these initiatives but a small sample is set out below:

- **Declarations**: About 75% of principal authorities in England and Wales have declared a climate emergency, most in the summer of 2019. All 32 of Scotland's local

authorities have signed Scotland's Climate Change Declaration of 2007 and, as such, are committed to the Scottish and UK Government's climate change programmes to reduce greenhouse gas emissions and to adapt to future climate change scenarios.

- **Increase in green spaces:** The London Borough of Sutton is one example of a local authority that has committed to additional green space, including in particular a commitment to maintaining and enhancing the biodiversity value of the borough and planting 2,000 trees a year.
- **Response to specific climate challenges:** Leeds City Council has created the country's largest flood alleviation scheme. These works have been partly funded by the European Regional Development Fund, which highlights a potential funding issue post-Brexit.
- **Partnerships with universities:** Many councils have opted to co-operate with universities to tackle to climate change. For example, Cornwall Council and the University of Exeter have partnered up to develop a decision-making tool for local government that combines the modelling data on local climatic changes with a systemic analysis of the potential associated health risks and makes recommendations to inform policy and decision-making. Meanwhile, Cambridge County Council and University College London are working on producing two tools to measure and reduce carbon emissions in the procurement process.
- **Public participation:** Local councils are uniquely placed to convene local partners, businesses and civil society. Leeds City Council, for example, has created a "Citizens' jury" comprising 25 people from different backgrounds and tasked with bringing forward ideas for tackling climate change.

What other sectors can learn from the initiatives in Q3-4 is that there is a potential for collaboration, particularly with research-based institutions such as universities. The latter can provide the critical expertise required to develop and implement effective, science-backed tools to achieve better processes, such as local decision-making and/or targets in the context of climate change (and net zero).

Q5: Is the regime effective in light of future challenges?

While there are many positive examples of action by local authorities despite policy and funding gaps, the current regime is not particularly effective, given the urgency and depth of measures needed to address the climate crisis. A number of initiatives were announced in the Net Zero Strategy which the government hopes will boost the ability of local authorities to deliver net zero. Some are more concrete than others. They are aimed at, for example, the elimination of biodegradable municipal waste; green infrastructure; local nature recovery strategies; reducing emissions from transport; and

funding opportunities for high value and strategic projects. The Department for Levelling Up, Housing and Communities and Ministry of Housing, Communities & Local Government have also put together an online collection of resources addressed to local authorities with information on, for example, green jobs and skills and waste and recycling.

The decision not to create a legislative framework or statutory target for local authorities to reach net zero, alongside funding to achieve that target, means that local authorities will need to continue to innovate in order to address the climate crisis, drawing on new funding initiatives and on various grant schemes for net zero work.

Q6: What are the top additional interventions (of any kind) that would improve the legal and governance framework in the sector?

1. **Creation of a uniform framework** – either through legislation or guidance – that both empowers local government and clarifies their role in tackling climate change. A legislative framework is in place in Scotland and Wales, but not in England and Northern Ireland.
2. **Promotion of a coordinated approach** across local government, including on how local authorities ought to understand and report their emissions, as well as allowing for the exchange of best practices.
3. **Provision of resources**, including funding, to ensure local government can achieve their targets and ambitions.

In light of the Net Zero Strategy, however, there is a single important shift required from local authorities themselves: **locally-driven ambitious climate initiatives**. The fact that the government has chosen not to impose a central target, but rather to incentivise and encourage local action, should give local authorities reassurance that they are able, using their existing powers creatively, to take ambitious steps. This applies across local authority functions: from incorporating climate policies into local plans which could, for example, set energy efficiency standards for new development which exceed the energy requirements of Building Regulations and require developments to demonstrate actions taken to reduce embedded carbon; to using the Local Design Codes to require development to reduce carbon emissions; to obtaining grant funding to develop active travel schemes (in Wales, the Active Travel (Wales) Act can be relied on); to promoting significant net zero infrastructure projects, such as district heating systems, supported by the funding announced in the Net Zero Strategy.