

Response to the consultation on the Draft Policy Statement on Environmental Principles

2 June 2021

About Energy UK

Energy UK is the trade association for the energy industry with over 100 members spanning every aspect of the energy sector – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

We represent the diverse nature of the UK's energy industry with our members delivering almost all (90%) of both the UK's power generation and energy supply for over 27 million UK homes as well as businesses.

The energy industry invests over £13.1bn annually, delivers around £85.6bn in economic activity through its supply chain and interaction with other sectors, and supports over 764,000 jobs in every corner of the country.

Executive Summary

Energy UK supports the intention of the proposed Policy Statement in ensuring that Government meet its climate change and wider environmental targets.

While we welcome the direction of travel towards embedding environmental principles in policy-making to reduce overall negative environmental impacts, we have a few concerns with how the draft policy statement proposes achieving this. The most important of which is the notable absence within the statement of the legislated Net Zero greenhouse gas emissions target, which is the most important UK policy for addressing climate change and seeking to prevent the irreversible environmental damage associated with it. While there are a few implicit mentions of this target, there should be an explicit statement on Net Zero given its national priority and the aims it is trying to achieve.

We provide more detail in our main response below.

Response to consultation

Question 1. Would you like your response to be confidential?

No.

Question 2. What is your name?

Redacted

Question 3. Are you responding:

On behalf of an organisation

Question 4. What type of organisation are you responding on behalf of?

Industry association: Energy UK.

Question 5. Do you think the overview section provides an adequate foundation for policy makers to apply the environmental principles in policy-making?

Energy UK considers that the draft Policy Statement has a notable absence of climate change and the achievement of Net Zero as a policy goal within the Statement. While there are a few implicit mentions

of the Net Zero target, it should be explicitly addressed given its national priority and the aims it is trying to achieve, which is ultimately minimising irreversible environmental damage. It should be made clear in the Statement that Net Zero is one of the key policy objectives over the next few decades and should be recognised as the overarching policy goal. As the principles are used in the development of policy, ultimately whilst parity can be maintained across the principles, the statement should allow for prioritisation of policy development that directly contributes to Net Zero.

Energy UK also highlights that the definition of 'public authorities' in the Environment Bill raises potential for double regulation and might unnecessarily bring utilities into the scope of the Office for Environmental Protection. This could in turn result in significant delays to projects which have a role to play in the Net Zero transition. While we understand that is not Government's intent, it is important that further clarity is given on this to avoid confusion and any unintended consequences.

Further clarity would also be welcomed on the point the statement makes around proportionality and mentions of a holistic approach. As currently drafted there does not seem to be any detail on how Government intends to ensure proportionality or include any explicit reference to the need to balance environmental costs and impacts with the benefits of the developments or local impacts with wider impacts or immediate with long-term benefits or impacts. In particular, ensuring that the positive impacts of a development are dutifully examined in the assessment of impacts in general to meet that objective of proportionality. To this end, we would reiterate the need to include a more explicit reference to Net Zero and the positive benefits that can be realised with energy infrastructure when weighing up the overall impacts against benefits.

We welcome the Policy Statement's requirement for policy-makers to take a holistic approach when thinking through the impact of a policy. The concept of inter-generational equity should be referenced in the Statement because the task of preventing environmental damage from climate change should not be left to future generations. Therefore, we would encourage DEFRA to elaborate on how long-term and short-term environmental gains or damages will be weighed against each other for improved clarity in policy making and achieving this holistic approach.

Furthermore, when determining the balance between benefits and impacts, it would be valuable to have more differentiation on the terminology used to label the spectrum of possible impacts to accurately reflect their respective damage. For instance, in footnote six of the statement it is outlined that the terms environmental pollution, damage and harm are used interchangeably to refer to a negative environmental impact. In our view, a negative environmental impact does not necessarily constitute environmental damage and/or harm; a very low-level emission in the wider context of Net Zero should not automatically be assumed as damage or harm when there is a clear long-term target to reduce environmental damage/harm. Terminology should therefore be clear and more reflective of the actual environmental outcome, so as to avoid misinterpretation and inconsistency.

As a general point, the statement itself is left open to interpretation in parts and although we recognise that allowing a degree of flexibility for Ministers is sensible, too much may create policy uncertainty and result in an increased likelihood of challenge and therefore delay.

We do however support the statement being applied across all policy and all government departments and the requirement for the statement to be considered in the early stages of policy-making. However, we also consider that as well as consideration at the outset, assessments should be made throughout the policy-making process to ensure that the statement is still applicable to the end result.

Question 6. Do you think step one allows policy-makers to correctly assess the potential environmental effects of their policy?

We consider that step one of the draft Statement, once again, leaves too much left open to interpretation and does not make a clear enough alignment with government's climate goals and Net Zero target. In particular, the section on proportionality should be updated to address the need to

balance environmental costs or impacts with wider benefits such as contribution to reaching Net Zero and other climate change targets.

We would also like to express concern over the vague reference to consider the environmental impact overseas, *"for the majority of domestic policy it would unlikely to be appropriate to consider the environmental impact overseas, unless there is strong rationale for doing so"*. It would be good to get further clarity around what activities and/or locations exactly this is targeting. One reading of this was that it referred to projects offshore, such as offshore wind farms. If this is the case, a "strong rationale" may well be easy to argue for offshore developments further out from the coast and could complicate already complex project consenting procedures as a result.

We would want to see recognition of the wider benefits of certain developments, such as offshore wind and its valuable contribution towards climate change mitigation proportionately compared to the localised impacts. Therefore, we have reservations that this would create more barriers in terms of consenting and additional requirements for what is already a heavily regulated development process. As such it may be necessary to build in flexibility or derogations in order to get these projects, vital to reaching Net Zero, over the line.

Question 7. Do you think step one ensures that policy-making will address the most important environmental impacts?

As outlined in earlier questions, we consider that there needs to be clear reference to the assessment of wider environmental benefits such as contributing towards Net Zero, against more localised albeit significant environmental impacts, to enable renewable energy, Carbon Capture Use and Storage (CCUS), hydrogen production, new build nuclear as well as other low-carbon technology projects to come forward and be supported. Our view is that there should be an explicit recognition within this statement of the need for some degree of policy prioritisation, keeping all principles equal, if Net Zero is to be delivered by 2050.

As such, the statement should give Ministers the confidence to take a balanced view of a proposed activity or development, so that those which will allow the long-term achievement of Net Zero are able to go ahead whilst also minimising or mitigating their short-term localised environmental impacts as much as possible. It should thereby guide ministers to take a holistic approach, balancing the long- and short-term benefits and impacts, which then trickles down to regulated decisions.

Question 8. Will step two assist policy-makers in selecting the appropriate environmental principles?

We consider that step two would benefit from context and the inclusion of some worked examples of how policymakers should select the appropriate principles. Worked examples would provide very clear guidance on the process and a steer, especially for those policy-makers in government departments not dealing with environmental impacts as the core part of their remit (e.g. in the Department for Education).

Question 9. Do you think step three provides a robust and sufficient framework for the application of each individual environmental principle?

a. Integration

We agree that policymakers should have a holistic view of how to apply the principles and support the statement being applied across all policy and all government departments. As currently drafted there does not seem to be any detail on how Government intends to ensure proportionality or include any explicit reference to the need to balance environmental costs and impacts with the benefits of the developments or local impacts with wider impacts or immediate with long-term benefits or impacts. In particular, ensuring that the positive impacts of a development are dutifully examined in the assessment of impacts in general to meet that objective of proportionality. To this end, we would reiterate the need

to include a more explicit reference to Net Zero and the positive benefits that can be realised with energy infrastructure when weighing up the overall impacts against benefits.

b. Prevention

No view.

c. Rectification

No view.

d. Polluter pays

We question a suggestion made under the polluter pays principle (page 16) which outlines that policymakers should consider who it is fair to expect to pay for pollution and that it may be more effective to distribute the cost for across a particular sector responsible rather than place on an individual or group. We question whether it is fair or in line with the principle to spread cost across a sector, when there might be only one problematic company inflicting the environmental damage.

e. Precautionary

We stress the importance of striking a balance between long- and short-term impacts and benefits, so that the wording on the precautionary principle cannot be used as a barrier to reasonable development, and encourages the appropriate consideration of risk and trade-offs.

Question 10. Do you think the process for applying the policy statement (the three steps) provides a robust and sufficient framework for the application of the environmental principles as a whole?

If the process and policy statement are reviewed and take into account our suggestions as outlined in this response, we would support the process as a robust and sufficient framework to apply the environmental principles.

Question 11. Do you have any other comments on the draft policy statement which are not covered by the previous questions?

Energy UK has questions around whether the policymakers in certain departments have the appropriate resource and expertise to identify the environmental effects. In some departments we would expect this to be the case but in others that may not be guaranteed. It will therefore be vital to ensure that there is adequate resource on hand to ensure that those who need to make that environmental impact assessment have the tools to be able to do that appropriately.

We would also suggest a clear statement on timeframes for when the policy statement would be reviewed and updated over time to ensure that it is kept fit for purpose. The first of these reviews should be scheduled sooner than the rest of the timetable to take into account the fact that this is a whole new system and there may be kinks still to work out in its early days.

For further information, please contact:

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