

Climate Change Legislation Team

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1 February 2021

Dear Sir/Madam

Re: FSB Northern Ireland response to Discussion Document on a Northern Ireland Climate Change Bill

FSB welcomes the opportunity to respond to this consultation on a Climate Change Bill for Northern Ireland. We trust you will find our comments helpful and that they will be fully considered.

FSB is the UK's largest business organisation, with around 165,000 members in total, including around 6,000 in Northern Ireland across all sectors of industry and business. Established over 40 years ago, we are a non-profit making and non-party political organisation that's led by our members, for our members. Our mission is to help smaller businesses achieve their ambitions.

Northern Ireland is a small business economy, with the highest concentration of SMEs in all the regions in the UK - 99.9% of businesses are SMEs. 98% of all firms employ fewer than 20 people, while 95% employ fewer than 10. Northern Ireland SMEs provide 75% of all private sector jobs, and over two-thirds of private sector turnover compared with around 50% in the UK as a whole. Small businesses employ more people than the public sector and large businesses, combined.

To this end, small businesses are a key consideration in almost *any* government initiative, let alone one of this scale and importance. In the same way we should always aim to create 'ideal' conditions for small businesses to start and thrive, we must ensure the methods we deploy in helping the environment to repair itself are based around a set of principles that protect and enable small businesses to play their part.

Such principles acknowledge there are a number of different paths we can take to reach Net-Zero – based on political will or emerging evidence – and so they act as a 'checklist' to ensure we get there while protecting and accelerating economic opportunity. In other words, harnessing opportunity whilst doing the right thing.

Please do not hesitate to contact us if you have any queries. We look forward to continued engagement with the Department as you progress with this consultation and consequent policy development.

Yours faithfully,

Tina McKenzie

FSB Northern Ireland Policy Chair

Introduction

Firstly, FSB notes the purpose of this consultation - the Department would like stakeholders to tell them which option they think is best for Northern Ireland regarding climate change legislation, as well as what type of things they would like to see in this legislation. The aim of a Northern Ireland Climate Change Bill would be to create a framework addressing multiple aspects and issues of both climate change mitigation and adaptation in a holistic, overarching manner in order to deliver our commitments to the Paris Agreement and to the UK's Net-Zero emission target.

Of course, FSB recognises climate change is perhaps the world's greatest health and economic threat, and no one will be immune to the long-term effects if we fail to act now. It is now beyond debate that we need to change how we live, work and do business in order to curb our emissions and repair the damage. We note that the UK has committed to reaching Net-Zero carbon emissions by 2050, and Northern Ireland (NI) is required by UK law to play its equitable role in reaching this target. This change is happening.

As the only UK nation without its own relevant legislative framework, a Climate Change Bill (CCB) for NI will deliver a key commitment of *New Decade New Approach* - but time is moving rapidly. The urgency of the crisis we now face means that businesses will come under increasing pressure to act in reducing their carbon footprints from investors, consumers and now the Government in the form of future legislation such as this Bill.

We must move rapidly to put appropriate legislation and transition strategies in place. This is particularly true, given that the UK Climate Change Commission (CCC) does not estimate Northern Ireland can reach Net-Zero in its own right by 2050.

The Discussion Document outlines the volume of work already underway by respective departments, despite no CCB. It further reiterates differences in NI circumstances compared with the wider UK, including the dominance of agriculture in our economy - while outlining evidence and policy drivers on this proposed CCB framework.

"In total, the UK reduced emissions by 43% between the base year (1990) and 2018. England and Scotland reduced emissions by 46% and 45% respectively. Wales and Northern Ireland reduced emissions by 31% and 20% respectively."

However, a key difference not referenced here is Northern Ireland's dependency on small businesses amongst the cross-section of emissions producers. If the only way to reach Net-Zero is by cutting our greenhouse gas emissions while doing more to remove greenhouse gases from the atmosphere, then our economy's dependence on SMEs means small businesses must be at the heart of any new policies or legislation as we seek to transition. This need is even more pertinent, when we consider how many people not only own a small business, but who are employed by, visit or live near one. Small businesses make up the fabric of our society.

In practice, putting SMEs at the heart could include building an evidence base such as: the possible impact of any new legislation; the ability of SMEs in adapting to these changes; what support and guidance they will require, and striking the balance between ambitious reduction targets, without putting impractical or unworkable burdens on small businesses.

Criteria and principles of decision-making

In three previous, related consultation responses during 2020 on the [Environment](#), [Energy](#) and [Waste](#), FSB outlined recommendations and principles that should be applied in the decision making process by policy makers:

- Small businesses recognise and support the broad, long-term objectives of climate change and environmental sustainability policies.
- Small businesses want to do the right thing and play their part.
- A long-term, strategic approach to environmental policy making is far better than a short-term, reactive approach.
- Policy solutions must be evidence-led.
- The impact of policies on small businesses must be understood in granular detail and published.
- Small businesses should be given adequate time to adapt to new requirements.
- Those small businesses that are particularly impacted, or least able to adapt, should be identified and provided with additional support and time to adapt.

Indeed, since 2001 Northern Ireland government departments have been operating under the *Northern Ireland Better Regulation Strategy*.¹ The principles of Better Regulation are:

- proportionality
- accountability
- consistency
- transparency
- targeted
- collaboration
- support

There is a government commitment to using such principles in policymaking, as well as the full range of relevant impact assessment tools in policy and strategy development. One of those tools is the *Small and Medium Business Impact Test*

¹ <https://www.economy-ni.gov.uk/articles/better-regulation>

(SAMBIT) that all departments should deploy.² However, due to a lack of reporting FSB remains to be convinced that SAMBIT is being used to its full potential. FSB reported on and made a series of recommendations on the issue of regulatory reform in 2015.³ We note the Discussion Document reference to use 'Regulatory Impacts' as proposals are further developed.

"Any proposal that imposes or reduces the cost on business which requires a Regulatory Impact Assessment to be completed should also take into account a Small and Micro Business Impact Test, if small and micro businesses will be affected."⁴

With so many moving parts across the NI Executive and its respective Departments, including legislation and strategies around Climate Change – from Energy, to Green Growth and Economy, Transport, a Programme for Government and beyond - in many ways it is an unenviable and difficult task, with many 'high impact' decisions to be taken. In the same way the CCB will act as a 'framework' or the glue in our climate transition, FSB believes that this framework should be underpinned in its own right to ensure consistency and fairness.

With this context in mind, we once again urge the NI Executive to take a 'principles-led' approach when developing the Climate Change Bill for Northern Ireland. The principles outlined below can be used to form the basis of legislation associated with our Net-Zero goals, in a way that is both ambitious and fair.

The Fairness Principles

FSB NI benefits from being part of a UK-wide organisation, with colleagues in each of the nations. The issue of Net-Zero is of course, high on the agenda in England, Scotland and Wales. In November 2020, FSB, together with other business organisations (CBI, Make UK, Institute of Directors and British Chambers of Commerce) published [A Just Transition to Net-Zero](#).⁵ Together these organisations represent the vast majority, if not all types of business across the UK.

The publication outlined a set of 'fairness principles' for Government to use as a guide when developing and implementing any new legislation associated with our transition towards Net-Zero. Subject to decisions that need to be made, the principles are intended to act as a 'fairness test' for policymakers in planning and designing regulatory policy frameworks, and prioritising investment. There are few better examples than a transition to Net-Zero.

² <https://www.economy-ni.gov.uk/publications/small-and-micro-business-impact-test-sambit>

³ <https://www.fsb.org.uk/static/29c1c99a-ab64-48e0-83b495c574ae8ab0/Regulatory-Reform-in-Northern-Ireland.pdf>

⁴ <https://www.economy-ni.gov.uk/sites/default/files/publications/deti/small-and-micro-business-impact-test-sambit-june-2014.pdf>

⁵ [https://www.fsb.org.uk/resources-page/uk-s-top-five-business-groups-call-for-just-transition-to-netzero-by-2050.html](https://www.fsb.org.uk/resources-page/uk-s-top-five-business-groups-call-for-just-transition-to-net-zero-by-2050.html)

The reason five business organisations came together in this way, is due to the varied impact the Net-Zero journey will have across businesses of different sizes and sectors. Aside from regulatory change designed for mitigation, SMEs can actually be particularly vulnerable to climate change and extreme weather itself. SMEs are likely to have a lower adaptive capacity and may have the most difficulty recovering due to not being 'as well-resourced' as much larger enterprises.⁶

To this end, and given the Climate Change 'juncture' in Northern Ireland, the principles-led approach can act as a checklist for Elected Representatives and officials as we progress in our own stages of planning, design and implementation. Regardless of which option the Executive decides to legislate under, it will have full control on the *criteria* upon which a CCB and its associated targets can be set, within the parameters of scientific evidence and advice. The five core fairness principles are:

1. Fairness of **ambition**
2. Fairness of **accountability**
3. Fairness of **delivery**
4. Fairness of **opportunity**
5. Fairness of **cost**

Fairness of ambition refers to the need for clear, scientific evidence-based climate change policies which demonstrate the gravity of the challenge, and realistic targets in terms of its timeframes and extent. Fairness of ambition also emphasises the need for a timely, clear strategy for meeting set targets to allow businesses time to prepare and adapt to new changes.

Fairness of accountability expects that all Departments within the Executive would work together to ensure that all environmental policies are coordinated, and accountabilities are clear. The Executive should also recognise that some policy solutions must be developed at a local level (e.g. council or community) to allow participation across society, from Government to businesses and individuals.

Fairness of delivery requires Government not only to support, but actively to incentivise businesses to work independently towards Net-Zero, recognising that there is no 'one size fits all' approach to tackling climate change and that business-led, sector-specific strategies will be required in order for Northern Ireland to reach its full emissions reduction potential.

⁶ <https://www.daera-ni.gov.uk/sites/default/files/publications/daera/Northern%20Ireland%20Climate%20Change%20Adaptation%20Programme%202019-2024%20Final-Laid.PDF>

As outlined in the Minister's foreword and Discussion Document, it is important to realise that the transition towards a low-carbon economy is not just an obligation, but an economic opportunity. It brings with it unbounded potential for investment and innovation across new technologies and infrastructure, ensuring that the Northern Ireland economy becomes more competitive in the global market.

Fairness of opportunity refers to the need for a level playing field for businesses of all sizes and in all sectors to benefit from such investments. In this respect, perhaps, there is a chance we can lead, rather than lag or follow.

Fairness of cost dictates that the costs of shifting to a low-carbon economy are spread equitably among different parts of society, from Government to businesses to consumers, based on a number of factors such as their environmental impact, ability to pay and ability to adapt to new methods of working. This should ensure that no one part of the economy unfairly bears the brunt of the costs associated with the mitigation of climate change.

Our primary recommendation is that a principles-led approach underpins the Northern Ireland Climate Change Bill. This means that as we proceed in the coming months, years and decades, we will maintain due consideration and consistency of decisions, while staff turnover or a change in the electoral mandate will be placated.

Further points for consideration

Engagement

While there is a formal consultation in place, FSB is concerned that as outlined in SAMBIT 'non-formal' engagement has been somewhat limited on these matters to date.⁷ We recommend the formation of an ongoing group to address this. An example of how this might be tackled is already evident within the Department for the Economy (DfE) on a related work stream - the development of a new Northern Ireland Skills Strategy.

DfE established The Skills Strategy Advisory Group (SSAG) in early summer 2020 – containing stakeholders from a range of interested and less obvious parties, along with officials. The group has a Terms of Reference, Chair and the use of video conferencing facilities has allowed for a group of around 40 to meet without losing productivity.

Driven by the assessment and recommendations in a [report by the OECD](#), the Skills Strategy, months in development prior to the establishment of the SSAG, was shared in draft form with members over a number of meetings. Members have been able to come together to learn and share, while views have helped to improve the draft for accuracy, new evidence and scope before it is due for release to public consultation in 2021. By using a similar approach, **we recommend the**

⁷ <https://www.economy-ni.gov.uk/sites/default/files/publications/deti/small-and-micro-business-impact-test-sambit-june-2014.pdf>

Department increases its engagement with FSB and other organisations in order to maximise the value of pre and post-consultative engagement.

Options for the development of a Climate Change Bill

According to the latest advice from the UK Committee on Climate Change, due to a number of specific circumstances it is unlikely that Northern Ireland will be able to reach Net-Zero emissions by 2050. Therefore, underpinned by principles, setting targets for an equitable contribution to the overall UK goal appears more appropriate at this stage.

The overarching purpose of a Climate Change Bill for Northern Ireland is to set targets for emissions reductions that are ambitious yet achievable, and to contribute to the UK Net-Zero 2050 goal. This is a collective responsibility and so must be a joint effort. Therefore, we reiterate that this Bill is not developed in isolation, but rather serves as a framework for all environmental policies across Government Departments. FSB is encouraged by the initiatives outlined in the discussion document, but concerned that small businesses have not yet been properly considered.

It is important that the Executive carefully considers any financial implications of 'local control' versus UK driven advice and intervention – both options aiming to achieve the same outcome, but with distinct differences in responsibility and perhaps, investment control.

As the discussion document outlines, Northern Ireland relies heavily on agriculture and is part of an all-Ireland single electricity market. As in other areas of devolved responsibilities, decisions made in Westminster will affect the ability of the devolved governments to act and NI is in a unique position in more ways than that of its UK neighbours.⁸

Flexibility within a Climate Change Bill

In addition to a principles-led approach and framework targets being set within the NI Climate Change Bill, the Executive should seek to produce a clear trajectory of how these targets are to be met. We understand this will be reviewed and new evidence supplied (the extent of which is dependent on options chosen) to allow the Executive to understand what is working and what should be amended.

FSB recommends that once targets are set based on the latest scientific evidence, underpinned by the principles outlined, we should endeavour to keep our long-term targets in place. We should also consider how we can continually make them more ambitious by further stimulating innovation and incentives. For example, by use of

⁸ <https://www.instituteforgovernment.org.uk/sites/default/files/publications/net-zero-government-climate-change-target.pdf>

'gamification' and expanding on the Small Business Research Initiative, amongst other routes.⁹

Aside from the environmental/diplomatic impact of not 'doing our bit', if we are unable to stick to targets this could lead to, for example, a decrease in determination and investment, as well as other unforeseen and unintended consequences. However, flexibility *should* be encouraged by way of the approach we take – accounting for emerging evidence and lessons learnt elsewhere.

NI Independent Advisory Body

When it comes to tackling the climate crisis there can be no such thing as too much evidence - but there can be too much 'information' – such that information overload may dilute or confuse the evidence itself. This is an inherent risk.

An independent NI Advisory Body *could* serve the purpose of providing detailed advice, more granular evidence and independent scrutiny – simply because it has more time and its sole focus would be NI. Its most important role may be in advising how we transpose learnings from the UK CCC into local legislation and implementation.

The Executive should also be mindful of the range of fiscal levers set at Westminster that will assist on incentivising behaviour change in our journey to Net-Zero. For example, how might taking a different approach affect our ability to draw down investment and pull such levers. By ensuring we do not treat climate change evidence in a 'different' way, but focus on using extra expertise and capacity to add layers of understanding, we can mitigate against these risks.

Reporting on adaptation and mitigation measures

The Discussion Document outlines two different types of reporting - the first of which is mitigation and refers to reporting on the measures taken to reduce carbon emissions. Adaptation reports are more detailed and complex - they include the impacts of climate change on an organisation, proposals for adapting to these, and an assessment of progress made since previous reports.

While it is important to chart our course to our contribution to Net-Zero, the benefits of these reporting methods should be weighed against the administrative burden this would cause to small businesses.

*"If the duty to report was applied to all public bodies and statutory undertakers in Northern Ireland, this could cover a large number of small organisations. The Department's view would be that it would be disproportionately onerous to place a reporting duty on all of them."*¹⁰

⁹ <https://www.economy-ni.gov.uk/articles/sbri-small-business-research-initiative>

¹⁰ https://www.daera-ni.gov.uk/sites/default/files/consultations/daera/Discussion%20Document%20on%20a%20Northern%20Ireland%20Climate%20Change%20Bill%20-%20Full-length%20version_0.pdf

Perhaps a more effective approach would be to make reporting voluntary for those who wish to lead the way, and offer incentives to businesses to encourage others to follow suit. The UK Climate Change Act has taken a voluntary approach to reporting, while Scotland has made reporting mandatory for 'major player' public bodies. In Northern Ireland, it would first require consideration of what constitutes a 'major player' and whether, for example, mandatory reporting would impact on the 'major player' supply chain or on future procurement decisions.¹¹

Finally

It is often easy to feel disheartened at the devastating effects of climate change and the huge amount of work required to adapt and mitigate - to the point that we may forget how this change brings substantial opportunities for society as a whole. As is often the case, Northern Ireland is lagging behind in this policy arena.

However, as always, a benefit of lagging behind is that NI can learn from elsewhere and embrace the opportunities this presents. In addition to ensuring that we adapt and mitigate, we are encouraged by the Department's aim to make the most of 'Green Growth' since the Minister's launch of the concept in June 2020.¹² The Minister noted at this time:

"...my message today is one of revolution — a revolution in our economy that, if embraced, will benefit our businesses, people and environment."

"The first element of green growth is a co-designed, environment strategy from the Executive, entitled the "Green Growth Strategy". It will be designed in collaboration with a broad and inclusive range of people from across the business community, environment sectors and the community and voluntary sectors..."

We note that in January 2021, this work is progressing across Departments and we look forward to being a part of the design process in the near future.¹³ This spirit is evident in other Departments as well, where the changes needed to incentivise behaviour change are beginning to take hold – an indication that the 'market' will form the driving force behind our climate change goals.

For example, recent changes to Permitted Development Rights in NI allow for market-led expansion of recharging infrastructure for electric vehicles, without the need for planning permission in most cases.¹⁴ This is crucial when we consider that Transport forms 23% of our emissions and in a recent Department for Infrastructure survey, reasons discouraging respondents from buying electric

¹¹ <https://www.finance-ni.gov.uk/news/murphy-restructures-procurement-board>

¹² <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2020/06/23&docID=302713>

¹³ <https://www.daera-ni.gov.uk/news/poots-chairs-first-meeting-green-growth-inter-ministerial-group#:~:text=Speaking%20following%20the%20meeting%2C%20Minister,and%20deliver%20sustainable%20economic%20growth.>

¹⁴ <https://www.infrastructure-ni.gov.uk/news/business-and-environment-benefit-new-permitted-development-proposals-permitted-development-rights>

vehicles were - 'purchase price' (64% of respondents), 'need to recharge your vehicle' (49%) and 'vehicle range from one charge' (37% of respondents).¹⁵

FSB is further pleased to see DfE is commissioning a piece of research to fully investigate and understand the economic opportunities associated with a new Green Energy Strategy for NI. This research will include a model of economic impacts in terms of employment opportunities, turnover and export potential, as well as evidence-based recommendations on legislation, incentives and support that will be required to achieve this potential.

In this spirit, it may be wise for the Executive to appoint a 'Green Opportunity Champion' whose sole purpose would be to help ensure economic and environmental possibilities are maximised and work in harmony.

In conclusion and to reiterate – in order to ensure a 'just transition' to Net-Zero in Northern Ireland, FSB recommends that the Department:

1. Ensures a series of fairness principles underpin the NI Climate Change Bill, associated legislation and policy development.
2. Establishes a dedicated Climate Change Stakeholder Group.

ENDS

¹⁵ <https://www.infrastructure-ni.gov.uk/news/attitudes-electric-vehicles-northern-ireland-201920-has-been-published-today>