

22 April 2008

The Scottish Government
Climate Change Bill Consultation
1-G North, Victoria Quay
Edinburgh
EH6 6QQ

Dear Sir/Madam

The Sustainable Development Commission Scotland's response to the Scottish Government consultation on a Scottish Climate Change Bill

Please find enclosed the response from the Sustainable Development Commission Scotland (SDC) to the Scottish Government's proposals for a Scottish Climate Change Bill.

As the independent advisor to the Scottish Government on sustainable development, the SDC is supportive of the Government's aim of underpinning action on climate change with legislation. We see that climate change is the result of unsustainable behaviours in our society, which are themselves partly influenced by Government policy. Therefore to successfully tackle climate change and to deliver the 80% cuts required by 2050, Government will need to look carefully at how it can use the breadth of policy within its control to support a more sustainable economy and society.

In its consultation document the Scottish Government has set out a complex set of issues for discussion. In our response we have provided advice, and hope these views are of use to Government. The complexity of the issues around climate change means that a number of the consultation questions are related, and that answers given to one question depend in part on how Government decides to act on another issue. In particular the Government's approach to emissions that fall within the EU Emissions Trading Scheme (EUETS) will impact substantially on the eventual Climate Change Bill and issues relating to how Government should set targets, and what supporting measures will be needed. We have tried to highlight the links within our response.

We would also like to summarise a number of our key points:

1. Government needs to include all greenhouse gases within its target, and all sources of each of the six greenhouse gases
2. Scottish Government to include information about the Purpose of the Bill in its preamble
3. While the EUETS creates serious issues for setting a target, we believe that Scottish action on climate change must avoid replicating the workings of the EUETS and creating a double burden of regulation. At the same time, however, if the EUETS target or the operation of that system fails to deliver emission reductions that would be required to allow Scotland to meet its targets then additional intervention by the Scottish Government would be desirable. Therefore, decisions about the inclusion of the EUETS must be informed by action of the EU and UK Government, and any Scottish decision cannot be separated from discussions about the type of target to be set. The

Scottish Government should however still report on all EUETS emissions, even if they are excluded from the target

4. The Scottish Government must treat all EUETS emission types consistently. It should report on energy from generating stations in the same way as emissions from aviation and shipping. The Government's current rationale to exclude emissions from aviation and shipping is not justified
5. Government should set interim targets for 2020 and 2035. We recommend a minimum target of 40% by 2020 from 1990 levels. An interim target will be necessary to send a strong signal about the need for significant and early reductions in Scottish emissions. Use of greenhouse gas budgets does not send this signal strongly enough
6. A duty to tackle climate change should be set for public bodies. Without this Scottish public bodies will not see climate change as of primary relevance or interest to their work and are unlikely to adequately support the Scottish Government's action to reduce emissions by 80% by 2050.

We look forward to providing relevant advice to Government on how to deliver this Bill and its targets to reduce Scotland's climate change impact.

Yours faithfully

Maf Smith
Director (Scotland)

TARGETS

1. Should a Scottish target be based on carbon dioxide only or the basket of six greenhouse gases?

The Scottish target should be based on the basket of six greenhouse gases. There are three reasons for this. Firstly, while CO₂ is the most significant of these gases, others are more “aggressive” in their impact on climate change on a per unit basis. Scotland therefore needs to be aware of reductions being made in all six gases, because action on CO₂ only would be incomplete if emissions in the other five rise. Secondly, Scottish targets should be determined on a basis that is consistent with international governance regimes. The Kyoto basket of six greenhouse gases should therefore be the basis for Scottish legislation. Thirdly, non CO₂ emissions from the agricultural and land use sectors are particularly significant within the Scottish context.

Focusing solely on CO₂ would have the effect of not capturing a significant proportion of Scottish emissions within greenhouse gas reduction targets. This would have a two-fold effect: (a) reduction trajectories will not account for all significant greenhouse gases and hence the dangerous impacts of climate change will not be avoided and (b) potential transformations in Scottish agriculture and land management will not be facilitated. Concerns about lack of reliability of data is insufficient a reason for exclusion from the target. Moving forward on the basis of the best science currently available is consistent with the precautionary principle and inclusion in the target will encourage research and analysis into monitoring while exclusion will likely inhibit such research.

*Changing Our Ways*¹ highlighted that between 1990 and 2003, greater percentage reductions have been delivered in methane, nitrous oxide and PFCs than for CO₂. Furthermore, while their contribution is small in comparison to other gases, two of the six gases (HFCs and SF₆) have shown a substantial increase between 1990 and 2003. This highlights the importance of monitoring each of the six gases and including them within the overall Scottish target.

We would also urge that the Scottish Government translates each of the basket of six greenhouse gases into a CO₂ equivalent (CO₂e) figure, which will be more easily communicated with and understood by the public and media. However, alongside this figure Government must of course be able to track and report on each of the six gases separately.

We would also urge the Scottish Government to include information about the Purpose of the Bill in its preamble. Government must state explicitly what the purpose of the Bill is for.

The Purpose could be for Scotland to make an equitable contribution to global efforts to tackle climate change and contribute to action to minimise the emerging economic, social and environmental impacts of climate change, or to demonstrate that a developed economy can make emissions cuts that are sustainable (i.e. the wider economic, environmental and social impacts of this can be managed), or to position Scotland in a strong position in a global carbon economy. The purpose may be a mixture of these, and then clarity on the primary purpose will be helpful.

Being clear about the Purpose of the Bill will not only set parameters for the scrutiny and advice any action on emission reduction requires (for example if the purpose is about economic positioning a lower level of scrutiny would be required than if the purpose is making an equitable contribution to tackling global emissions), but it will also help guide interested parties in the next stage of discussions around the Bill. In attempting to answer questions relating to this consultation SDC has not always been able to provide clear advice, because Government has not yet set down its reasons for the Bill. These reasons must also include reference to key international scientific conclusions such as the reports of the UN’s Intergovernmental Panel on Climate Change.

¹ see emissions data figures on pp110-111

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?**

Notwithstanding the answer given to Q1 above, yes, we agree that the Bill should contain such provisions, with the proviso that it should base such decisions on scientific advice.

3. **The Scottish Government wishes to ensure that the Bill gives sufficient incentives to invest in energy efficiency and renewable energy. 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?**

Our answer on this would be influenced by how the Scottish Government decides to factor in emissions currently managed under the EUETS.

Our preference would be that targets are based on source emissions. It is source emissions that are the emissions for which Scotland has direct responsibility. However, data should also be collected on emissions based on an end-user inventory as this will demonstrate the “balance of trade” between emissions released in Scotland and emissions due to Scottish consumption. Such an end-user inventory should be comprehensive in scope and data should be collected for all emissions and report on total consumption of greenhouse gases due to Scotland.

Targets for energy efficiency and renewable electricity do need to be developed but these should be separate (though linked) to the targets for reduction of climate change gases. Indeed targets for renewable electricity and transport fuels already exist, and the Forum for Renewable Energy Development in Scotland has recommended that the Scottish Government develop a similar target for renewable heat.

On the topic of separate targets for energy efficiency, if the Scottish Government decides to exclude EU Emissions Trading Scheme compliant sites from the Scottish target (see question 5 below), then separate targets for energy efficiency will be of vital importance for ensuring that reductions are still delivered in energy use in the domestic and commercial sector. Furthermore, such targets would focus on demand reduction, not fuel substitution so would have a greater environmental benefit. **We would therefore recommend that demand reduction targets be set for Scotland’s housing stock, for commercial premises and industrial energy users who are outside the EUETS.**

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?**

Yes. It would be appropriate for Government to ensure action is in line with international developments, and that unforeseen consequences can be resolved. However, any changes to the measurement of the target should be conditional on the fact that they are based on the advice of the Climate Change Committee or any successor body.

In particular we would like to see the Bill include scope for adjusting the target in light of experience of managing the EUETS alongside or within the Scottish target, as discussed in our answer to Question 5. This is because of the many uncertainties around the approach for reducing EUETS emissions in the overall Scottish target. Government might wish to keep this item under review, but should seek advice from the Climate Change Committee before acting on this.

5. **Should the emissions reduction target take account of the abatement effort made by companies under emissions trading schemes? If so, how?**

We recognise the complexity around this issue and the difficulty for Government in deciding between options.

Because there are uncertainties around the EUETS (including whether the emissions reductions target will increase and what any longer term target out to 2050 might be), it is difficult for the Scottish Government to fully plan its own targets and delivery of its commitments. As the Government consultation notes, just under 50% of Scottish CO₂ emissions are regulated by the EUETS. Looked at from a different perspective, however, this means that almost half of Scotland's CO₂ emissions are already within an international scheme and committed to a 20% reduction by 2020 (which may increase to a 30% reduction by 2020). **Government priorities therefore need to relate to the 50% of Scottish CO₂ emissions not covered, as well as the emissions of the other five greenhouse gases.**

In terms of whether to include action undertaken through EUETS in the Scottish target, much depends on international developments and agreements on climate change. If international discussions on setting an increased emissions reduction target (which commenced in Bali) reach agreement, then it is to be expected that the targets set for emissions within the EUETS will increase to a level (e.g. 30% by 2020) that is at least near to, if not quite equivalent to, the target level considered for Scotland. If the level of EUETS emissions expected remains at 20% for 2020, then there is clearly going to be significant divergence between Scotland's planned emissions reduction and emissions reductions taking place within the EUETS.

Furthermore, there is current uncertainty around whether the UK Government will increase its target from 60% to 80%, something that the Climate Change Committee is expected to advise on, and also uncertainty about allocations and/or auctions in future rounds of the EUETS. Many commentators and experts predict that EUETS compliant installations will not receive an individual allocation in future years, but instead the allowances will be auctioned. If this takes place then the Scottish Government will find it harder to include the emissions from Scottish installations within the Scottish target.

In choosing how to manage this issue the Scottish Government has a difficult decision to make. Clarity on the primary purpose of the Bill would also be of significant benefit We also think that in deciding this, Government must bear in mind the particular opportunities, challenges and responsibilities facing Scotland in relation to climate change. Firstly, Scotland is one of the first countries within Europe taking action in this way. Secondly, if action in tackling climate change is to be successful, international coordination will be needed, and unilateral action (however successful on its own terms) will be insufficient. Thirdly, if this international action is to be successful it will need to involve business and the market framework that business operates in.

With this in mind, it is worth emphasising that the EUETS is the largest and most ambitious trading scheme developed, and is the best route for delivering major emissions reductions currently available in the EU. Scottish based installations therefore need to have confidence in the EUETS and their participation within this. It will therefore be difficult for Government to force Scottish based industry covered by the EUETS to deliver higher reductions without providing them with further support. We would recommend that the Government seeks the advice of the Climate Change Committee on how to treat the EUETS in its Bill. Please also note our response to Question 4 on this point.

We would recommend strongly that whatever course of action Government decides regarding the place of the EUETS within the Scottish target, Government reports on emissions of Scottish EUETS sites, the traded reductions made by these sites, and the actual reductions made by these sites.

A second issue to consider is what kind of target Government should adopt. If Government chooses to adopt a target based on source emissions, then we would recommend that EUETS emissions are included pending advice from the Climate Change Committee on the EUETS and the Scottish target (see our response to Question 4)

If targets are based on an end-user inventory (and/or sub targets including energy efficiency are set), then the emissions stemming from EUETS sites - and particularly Scottish electricity generation plant - can be more easily accounted for, and responsibility for reductions placed on users (e.g.. the Scottish Government target would attribute responsibility for reducing emissions of electricity not with the generators but with the users)

Thirdly, we are of the view that the Scottish Government cannot act without understanding (a) how the UK Government might finalise its own target, and (b) how the 2nd and 3rd phases of the EUETS will be structured. If the Scottish and UK targets are brought into line, and if national governments maintain a role in allocation, then the Scottish Government will be able to rely on the UK Government auctioning only to the level of credits compatible with the UK target.

If the Scottish Government needs to act before it is fully appraised of both these issues, and if it chooses to base a target on source emissions, it must seek to include EUETS emissions within the target and look to develop trading mechanisms to ensure that Scottish EUETS emissions can function within a Scottish Climate Change Bill.

There are also issues relating to how the Scottish Government might seek to regulate new installations of a type that would fall under the EUETS. If for example, the Scottish Government sought to exclude EUETS registered sites from within the Scottish target, but then new developments were built (e.g. a new factory) then Scottish emissions would increase (even if they were regulated under the EUETS), while progress toward the Scottish target would be unaffected. Of most concern would be the construction of new coal generation plant in Scotland that did not use clean coal and carbon capture methods to reduce emissions. We would therefore like to see the Scottish Government look at how to use planning and other regulatory powers to limit the types of new scheme that could be developed in Scotland in the future.

In summing up our comments relating to the EUETS, we would recommend that:

- a. The Scottish Climate Change Bill contains powers to change whether EUETS emissions are included or exempted from the Scottish target based on whether the EUETS sets a target in broad alignment with the emission reduction pathway set for Scotland
- b. The Scottish Government should establish clear reporting of EUETS emissions, irrespective of whether these are included or excluded within the target
- c. If the Government chooses to base its target on source emissions, then the emissions that stem from EUETS sites must be included within the target. However, if it bases targets on an end user inventory, then Government will be able to set a target based on all emissions due to Scotland and exclusion of EUETS sites will be much less problematic
- d. If The Scottish Government bases its target on source emissions, it will also require sub-targets for renewable energy and energy reduction in households, commercial buildings and industry (see question 1). These targets will be able to drive Government action that might otherwise be ruled out by excluding traded emissions from the target
- e. If the EUETS does move to an auction system and sets a target for a 30% by 2020 reduction, the Scottish Government will likely be able to include traded sector within its target and

have confidence that the allocation of credits by UK Government can contribute strongly to delivery of the target

- f. The Scottish Government may need to consider how it can participate directly in the auctioning of allocations, if it is to ensure that reductions due to EUETS sites in Scotland are proportionate with reductions for the overall target
- g. The Scottish Government must seek the expert advice of the Climate Change Committee on this issue. If the Climate Change Committee were to find that emissions in Scotland covered by EUETS are diverging substantially from overall Scottish emissions, then it should provide advice to the Scottish Government on how best to manage EUETS emissions as part of action on reducing Scottish emissions.
- h. The Scottish Government should investigate the use of secondary legislation and powers (e.g. planning) to ensure that any new EUETS compliant installations that might be proposed for Scotland are constructed and operate to high efficiency standards.

While discussing the issue of the EUETS, we would like to note that the consultation states (section 5.49 - 5.52) that aviation and shipping will be excluded from the target but managed through the EUETS. We think that this approach needs to be clarified, as the current approach implies that the Scottish Government wishes to apportion and measure different EUETS compliant emissions types in different ways.

While there are complications regarding how to accurately apportion emissions from international transport, without their inclusion in the target there is a real risk that reporting on the target will be misleading, and may mask the fact that despite action in reducing other emissions, emissions from aviation and shipping may in fact still be rising. Furthermore, inclusion of aviation and shipping within the EUETS would only include CO₂ emissions, meaning that emissions of the other five greenhouse gases would remain unregulated.

Furthermore, concerns about measurement of emissions is not a sufficient reason for exclusion from the target. Rather, moving forward on the basis of the best science currently available is consistent with the precautionary principle.

We would urge that the Scottish Government supports inclusion of aviation and shipping in the EUETS. In advance of emissions from international aviation and shipping being brought into the EUETS, these emissions should be included within any Scottish target. When these sectors begin to be traded in the EUETS, the Scottish Government can then adopt the approach to monitoring and reporting of these emissions in the same way it decides to take account of other emissions managed in the EUETS that originate in Scotland. Irrespective of how it manages emissions under the EUETS, the Scottish Government needs to include non-carbon emissions from international aviation and shipping within its target.

6. Do you agree that international credits should be counted towards Scottish targets? Should there be limits on credits counted towards Scottish targets?

We agree. However, there should be a cap placed on the level of emissions so that the primary means of delivering the reduction is through changes that take place within Scotland (i.e. in behaviour change, infrastructure change and changes in generation).

We understand that the UK Climate Change Bill proposes setting a limit of 30% on the level of emission reduction that can be counted through international credits but that this includes emissions traded through the EUETS. The level of emissions that can be traded will therefore depend on what Government decides about inclusion of the EUETS within the target. A critical issue is to have confidence in international credit systems and monitoring, and given published guidance

from UK Government on this issue, we see that restricting use of international credits will not necessarily deliver higher reductions in greenhouse gases.

However, there does need to be a limit placed on the use of international credits so that the bulk of action comes through reduction in domestic emissions, and we would recommend that Government use the Climate Change Committee or successor body for advice about what limits on credits should be set.

7. Should the Bill allow the level of the 2050 target to be changed through secondary legislation? If so, should this only be 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?

Changes should be allowed, but only to follow the advice of the Climate Change Committee or successor body. Any changes made should not be limited to increases in the target but should be based on the emerging science of the IPCC, as considered and applied by the CCC. While emerging science suggests that action may be needed at a more rapid timescale than the 2050 timescale envisaged in this consultation, it may be that the predictions change, and Scotland needs to be prepared to base its action on climate change on sound science.

SUPPORTING FRAMEWORK

8. What factors should be taken into account when setting the level of budgets?

The budgets will need to take account of all the factors mentioned but in particular be aware of issues of population growth and economic growth. The target will set a level of emission reductions required compared to a "Business as Usual" scenario to achieve the required absolute reduction to 80% of 1990 levels. Increases in population and economic growth may make this harder to deliver, as these trends are likely to increase Scottish emissions.

9. How long should interim budget periods be?

We do not have a strong view on the exact budget period required. More critical will be how the budget information is woven into the work of Government through carbon accounting and how the Parliament (and others) will provide scrutiny of delivery.

It is worth noting, however that we are not persuaded by arguments advanced that budgets must be a maximum of four years so that they fit within the electoral cycle. Having a 4 year term would create an immediate problem of when in the 4 year term to report. The 18 month gap in gaining up to date information from the greenhouse gas inventory will effectively mean that any four year report provides information about action across parliamentary terms.

Setting a period of less than four years (e.g. three years) will be similarly be problematic because of the 18 month gap in data.

A five year period for budgets would bring Scottish reporting in line with UK reporting periods. A five year reporting period would occur at varying periods throughout each Parliamentary term, and only 1 in 5 parliaments would not receive a five year budget. Even when this occurs annual reporting on progress will ensure a level of parliamentary scrutiny.

We would recommend that priority be given to improving data collection and management to reduce the 18 month gap in reporting of the greenhouse gas inventory and associated reductions due to Scottish activity.

10. How many years in advance should emissions budget periods be set in order to provide sufficient time to develop infrastructure?

It is the SDC understanding that the UK Government proposes to set indicative budgets up to 12 years in advance.

The SDC sees that it is important to have an indication of future budgets, but sees that it would only be realistic to set these for two successive periods in advance. Indicative budgets could, however, be set for a third period subject to further consultation.

11. What should be the limit (in terms of absolute quantity or as a percentage of the budget period) on the amount of emissions which the Government can borrow from a following budget period?

The UK Bill proposes a 1% limit on the level of borrowing allowed from the following budget period. We would support this level which is small enough to not jeopardise the need to deliver significant reductions across the relevant budgetary period.

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?

There is a school of opinion that the setting of greenhouse gas reduction budgets will remove the need for an interim target or targets. We would disagree strongly with this. Amongst Scottish public sector organisations and an increasing element of the private sector it is understood that the Scottish Government wishes to set a target to deliver an 80% reduction by 2050. Relatively few people in any of these organisations will be able to describe the detail of the systems that will be put in place to deliver this reduction. Over time an increasing proportion of the wider public will also pick up on this target and the work being done to deliver this. Again, they are unlikely to understand the budget and accountancy mechanisms that sit behind this target.

Setting an interim target will therefore help support the long term signal that the 80% figure represents by setting an interim milestone, and underlining the point that significant action is needed in the next few years, not at some distant point in the future. An interim target also has the advantage of being easy to understand and explain. It will of course be the equivalent of the reduction figures set out in published carbon budgets (which should be seen as the mechanisms that will deliver this interim target).

The CCC should be tasked with providing advice on what level be chosen, and should also advise (around 2020) on whether a further interim target is needed (e.g. 2030, 2035, 2040).

The UK Climate Change Bill now proposes to set an interim target of 26% by 2020. Originally a range was proposed but this has now been set to a minimum. We would recommend that the Scottish Government adopts a similar approach.

Changing Our Ways highlights that Scotland has already made significant reductions on 1990 levels. Net greenhouse emissions fell 14% between 1990 and 2003. Any interim target must therefore take this reduction into account. We would recommend that 2020 be used as a interim target point as this represents the mid-point between 1990 and 2050. Based on this it would therefore not be

unreasonable to set an interim target for 2020 to reduce greenhouse gas emissions by a minimum of a 40% (based on 1990 levels).

REPORTING SCRUTINY AND FRAMEWORK

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?**

The reporting needs to focus on delivery against the primary target. However, it will also be important to report on the following: (a) overall carbon footprint for Scotland to provide information about Scotland's "carbon balance of trade", (b) gross and net emissions, to give information about what proportion of change is due to land use change and carbon sequestration (e.g. greater lock up of carbon in land); (c) emission reductions delivered through Scottish participants in the EUETS (vs. emissions traded but not reduced within Scotland).

Reporting will also benefit through inclusion of a section on adaptation. It is expected that the impacts of climate change will become more significant and noticeable over time, and there will be costs and benefits associated with these changes. It will be important that the Parliament and Scotland as a whole is kept up to date on changes in Scotland and Government's response to managing this change.

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. If delivery is to be effective then the wider Parliament needs to be aware of action and to understand the importance of this action. Effective scrutiny will also better ensure action is continued across Parliaments and from Government to Government.

Minimum standards of scrutiny will be required. In particular, as per the UK Bill, if the Scottish Government is failing to deliver on targets and/or budgets it should be required to bring to Parliament an action plan for getting emissions reductions back on track. Parliament should be required to scrutinise this proposed action plan.

There will also be a need for associated scrutiny to support this Parliamentary scrutiny. Below we highlight the importance of creating a duty on public bodies. Effective scrutiny of this duty will be required and we see that bodies such as Audit Scotland and the SDC will play a critical role here.

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 primary source of advice should be the CCC or successor body. However, the Scottish Government should also look to use the expertise and views of existing bodies on climate change mitigation and adaptation.

We see that the Sustainable Development Commission Scotland will have an important role in provision of advice.

Our advice would be focused on the following:

- Technical issues surrounding how to take climate change into account in policy making (e.g. through use of carbon accounting tools)

- Governance and consideration as to how wider policy objectives and policy delivery routes can be changed to mitigate emissions and take account of climate change impacts
- The integration of climate change action with wider sustainable development principles.

16. If it is an existing Scottish public body, which public body is most suited to carrying out this task and why?

See answer to Q15.

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.

See answer to Q15.

18. If it is an existing Scottish public body, which public body is most suited to carrying out this task and why?

See answer to Q15.

19. Should additional independent mechanisms for scrutinising the effectiveness of the Scottish Government's policies in reducing emissions be created by the Bill (in addition to the robust scrutiny already provided by the Scottish Parliament)?

We believe that existing (Scottish Parliament) and proposed mechanisms provide sufficient scope for scrutiny.

However, we would note that SDC provides a scrutiny role for the Scottish Government, assessing and reporting on its delivery on sustainable development.

There are clear links between scrutiny on sustainable development and scrutiny on delivery of climate change targets. We would see our scrutiny role as providing comment on two particular issues. Firstly, climate change can be most effectively halted if Government tackles unsustainable policies that encourage unsustainable actions within society. End of pipe interventions alone will not deliver the long term emissions reductions required.

Secondly, Government will need to ensure that action to tackle climate change will not impact upon wider sustainable development. Sustainable development commitments of Government necessitate that it delivers social and environmental benefits through use of the economy, good governance and sound science. These five principles of sustainable development have been agreed by Government and are of primary importance. In scrutinising action on climate change the SDC will work to ensure that Government action on climate change is not at the unnecessary expense of damage to other parts of the environment, or to social and economic needs.

It is also worth noting that no matter how good the scrutiny process established, the most effective scrutiny will come from society as a whole, and through political pressure maintained on parties during election periods. It will therefore be important that the Scottish Government ensures that it publishes clear, authoritative, easy to understand information on climate change, its impact on Scotland, and on progress towards meeting the 80% target.

This scrutiny will also be important if the wider public is to understand its pivotal role in helping meet these targets, because individual behaviour change will be critically important in delivering emission reductions.

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.**

See answer to Q19.

21. **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 Q19.

22. **Are there any other functions related to climate change, existing or new, which should be carried out at arms length from the Scottish Government and why?**

Climate change is essentially an issue that Government must lead on. There may be, however, some need for research to be conducted at arms length to Government.

Priority areas of research include developing making improvements to monitoring and evaluation of emissions and associated reductions.

SUPPORTING MEASURES

SDC would like to make some general comments on this issue. Setting targets and developing budgets for emissions looking forward will require an estimation of behaviour change that has to be sought from citizens, the private sector and the public sector. It is likely that supporting measures to enable each part of society to work effectively towards achieving reduction targets will be different and that Government should respond to these nuances. Consideration of the type and scope of supporting measures should be developed in partnership with those who are likely to be directly affected by the measures.

If the Scottish Government is to exclude EUETS emissions from its target, then the role of supporting measures will become very important in ensuring that relevant sectors still play their role in emissions reduction.

In particular the Scottish Government will need to look at the role of planning and regulatory standards so that Scotland is not faced with the construction of new facilities which increase emissions and/or use emissions in an inefficient manner. Supporting measures which will be needed would then include:

- Regulations to set minimum thermal efficiency standards for any new generation plant. The Scottish Government has indicated that it will do this for energy from waste plants but should look at introduction of new standards for all future generation plant
- Planning criteria to ensure that any new thermal plant using coal as a fuel makes use of clean coal and carbon capture technology
- Transport strategies, and associated planning controls need to deliver traffic reduction targets, limit the growth of new airport capacity, and support movement from more polluting forms of transport to less polluting forms.

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. We are of the view that the Scottish Government needs to give clarity to the public sector about their role. Given that a significant element of emissions is not under the direct control of the Scottish Government, and that other public bodies often have more direct influence (e.g. through procurement, planning and regulation), these bodies need to understand that they have a direct role in supporting delivery of these targets.

While one means of doing this is through Local Outcome Agreements or the existing Scottish Climate Change Declaration, we see that these alone will be insufficient to engage the public sector.

There would thus be merit in placing a duty on Scottish regulators to consider climate change as part of their statutory duties. This could be achieved either through the creation of a new duty and/or the strengthening of the statutory guidance on Best Value to explicitly include climate change.

We would see that Audit Scotland has a critical role in monitoring the performance of public bodies and Community Planning Partnerships on climate change. We are aware however, that this would be a development of the role of Audit Scotland. Given the partnership existing between Audit Scotland and the SDC, we would see it as appropriate that SDC provides support and capacity building to help it develop this role, if it, the Scottish Government and Parliament agree that this change would be appropriate.

The Scottish Government should also consider the case for requiring the Scottish public sector to adopt equivalent carbon accounting procedures to the ones now being developed by the Scottish Government for use in national policy and carbon budgeting and to set performance targets and indicators for public bodies on emission reductions and climate change adaptation.

24. What should such a duty (or duties) include?

A duty should be simply framed, and relate to a requirement to take action to reduce emission, to report progress and to consider necessary steps to adapt to climate change impacts (in order to support the delivery of the Scottish climate change target).

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?

As noted above we feel that the Government should consider issuing new statutory guidance on climate change or amending the existing guidance on Best Value to specifically include climate change performance.

26. What should this guidance include?

See answer to Q25.

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?**

Scottish local authorities have a requirement to report on climate change action as part of the Scottish Climate Change Declaration. This has been a useful initiative, but we note concern amongst a number of stakeholders that the Declaration commitments are not likely to be integrated into many of the Local Outcome Agreements currently in preparation and that this local commitment to action may not be given priority in coming years. A requirement to report on climate change by local authorities, large public bodies and Community Planning Partnerships would help place climate change at the top of the agenda.

28. **As a potential non-legislative vehicle, should current Best Value guidance be amended to take specific account of climate change mitigation and adaptation? How should Best Value guidance be amended?**

Best Value Guidance creates a requirement to consider sustainable development. As noted above we agree that this should be amended to make explicit reference to the fact that climate change is a clear indicator of unsustainable society, and local authorities are therefore required to take action on climate change mitigation and adaptation at a strategic and service level.

This Best Value Guidance should also be supported by Performance Indicators for local authorities on Climate Change mitigation and adaptation.

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?**

No view.

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?**

The Scottish Government should consider a requirement to report on a climate change adaptation Performance Indicator. The development of NI188 in the National Performance Framework for English local authorities provides a useful template for a suitable adaptation indicator for Scottish local authorities. The Scottish Indicator could relate to the adaptation process set out in the Scottish Climate Change Declaration online toolkit.

31. **Should provisions within the Environmental Assessment (Scotland) Act 2005, be amended in order to provide clearer links with the Climate Change Bill? If so, how should this be done?**

An SEA can be triggered because of 'climatic factors', but generation of greenhouse gas emissions itself will not trigger an SEA. The Scottish Government should consider updating the SEA Gateway Toolkit and Guidance to change the provisions of the Environmental Assessment (Scotland) Act 2005 to define clearly what would be a 'significant level' of greenhouse gas emissions which would trigger an SEA.

32. What are the equalities implications of the measures in the proposals for the Scottish Climate Change Bill?

On this point, we note the Performance Framework for the Scottish Government that sets out nine Purpose Targets. These include two targets on climate change and also targets on solidarity, population and cohesion.

Delivery by Government across the nine targets will create tensions. For example increased economic growth and increased population (in a business as usual scenario) would be expected to lead to increased greenhouse gas emissions.

Government must ensure that action to tackle inequalities in society are not distracted by action on climate change. Similarly it must also recognise that because of inequalities some people and communities will be less able to tackle their own climate change impacts so will require Government support.

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?

No view.