

Strategy and Policy Statement for Energy Policy in Great Britain

DESNZ Consultation

Response from Sustainability First

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Sustainability First is a think-tank and charity with a focus on social, environmental and economic issues in essential services and in particular energy and water. We have significant experience of the energy policy process and also the RII02 regulatory process through involvement in the Ofgem Challenge Group and Consumer Engagement Groups. We have also carried out significant work on how regulatory models need to adapt to meet the challenges ahead on net-zero and fairness [ref - Sustainability First. Fair for the Future project papers 2019-2021. <https://www.sustainabilityfirst.org.uk/publications-public-purpose>]. We have also been involved in the early stages of thinking on PR24 in the water sector and provided input on the equivalent water Strategy and Policy Statement.

We welcome the opportunity to respond to the Consultation on the Strategy and Policy Statement (SPS) for Energy.

Enabled by the Energy Act 2013, we are hopeful that the SPS will be introduced in 2023 to provide broad strategic direction and a clear indication of government priorities, both to the energy regulator and the FSO. Setting out government priorities transparently in this way is important to stakeholders and also creates a more robust legal framework. Sustainability First is also very supportive of the creation of the independent Future System Operator (FSO) and regards the SPS as essential in clarifying its role, objectives and priorities.

Introducing a net-zero duty for both the energy regulator and the FSO is a welcome and important step in supporting broad regulatory alignment.

We look forward to seeing the 2035 Delivery Plan in the autumn which we hope will shed further light on some of these issues and on respective roles.

Consultation question 1 Does the strategy and policy statement identify the most important strategic priorities and policy outcomes for government in formulating policy for the energy sector in Great Britain?

The SPS helpfully brings together government strategies and plans of the past few years. These include the British Energy Security Strategy and the Net Zero Growth Plan.

The SPS builds on these documents with priorities structured under three headings.¹ However, this results in something of a 'long-list' with little sense as to which of the objectives are most urgent and / or most important in practice and hence how trade-offs should be made.

¹ Clean Energy & Net Zero Infrastructure; Energy Security & Protecting Consumers; Ensuring the Energy System is Fit for the Future

We are particularly concerned, especially in light of the energy price crisis, that little focus is accorded in the SPS to energy vulnerability. Across the document there are 20 references to innovation and only four to vulnerability. In particular, it should be made clear that ultimate responsibility for financial vulnerability (including any mitigations such as social tariffs) sits with government rather than Ofgem (but that Ofgem can play a role in advising and implementing any schemes). As drafted, Ofgem's role is simply to challenge the energy sector to do more to identify and support those who are struggling - which is wholly inadequate for the scale of crisis we are now facing. The SPS should clarify the responsibility as between government and Ofgem on energy bill impacts for customers in vulnerable circumstances and the measures needed to support them, whether financial or in other ways. More generally the SPS should make clear the respective roles as between Ofgem and government for addressing the distributional impacts of policy decisions.

We were pleased to note in the SPS that Ofgem and the FSO, through effective pursuit of their statutory objectives, will have a role to help grow the economy. Linked to this, we note that government plans to consult on a new growth duty for all the economic regulators. We assume that both new duties will be more clearly reflected in the final SPS, which should make clear that they are mutually aligned.

The SPS currently reflects a series of shared responsibilities. While a joined-up approach is to be welcomed, simply saying that Ofgem, government and the FSO will work together does not provide any real clarity. In particular, further detail is needed on ultimate accountabilities for example for resilience and 'keeping the lights on.'

Sustainability First notes certain important policy areas on which the draft SPS is silent and which we would want to see referenced, specifically:

- Climate adaptation – and its importance for energy sector resilience (noting the comments made by the Committee on Climate Change in its Adaptation report and also the National Infrastructure Commission on the need for more focus on resilience).
- Wider environmental issues such as biodiversity impacts (as highlighted, for example, in the Dasgupta Review). The primary components of the networks' carbon footprints i.e. methane leakage (noting the Methane Pledge that government signed up to at COP26) and electricity losses (which we have previously highlighted as a vital whole system issue with up to 10% of electricity lost as it is conveyed across the networks).
- The importance of local area energy planning linked to spatial planning at a local level.
- Skills and the supply chain where a collaborative approach would seem to be needed.
- More transparency, corporate responsibility and cross sector working across utilities.

We also feel that the priorities have been drafted with more emphasis on the changes needed in the electricity sector and less on gas (including around the pace needed on developing a hydrogen market).

It is also important that there is a clear vision of the role of the retail market in delivering net zero, recognising the important role that demand side response and distributed flexibility can be expected to play. As drafted the SPS feels rather backward-looking, focussing on the recent challenges the sector has faced.

Consultation question 2 Does the strategy and policy statement effectively set out the role of Ofgem in supporting government to deliver its priorities?

We note that the SPS does not replace or over-ride Ofgem’s principal objective to protect the interests of existing consumers and future consumers.

We welcome affirmation in the SPS that Ofgem takes its regulatory decisions independently and that within its regulatory powers it is free to decide on the most appropriate regulatory approach to a particular issue. At the same time, it is extremely important that government provides guidance – including through the SPS process – on the trade-offs that Ofgem is frequently required to make, for example, as between near-term considerations in keeping down bills against the need to agree funding for long-run investments. We therefore welcome the emphasis in the SPS on anticipatory investment in the electricity networks (reflecting the significant growth needed in these networks to deliver on net zero). We feel it is right that a strategic decision around the need for such investment – given the cost to customers - is made by elected government as opposed to the regulator. With this steer, the regulator is better able to make appropriate trade-offs between short-and long-term consumer interests as it takes decisions on specific proposals.

There may be helpful lessons for the Energy SPS in the strategic guidance already in place for both Ofwat and for Ofcom. Although the legal framework is slightly different in each case, both offer pointers as to how the energy SPS could under-pin better regulatory decision-making. For example:

- Ofwat and Ofgem have different statutory duties (e.g. on sustainability, on future consumers) but the water Strategic Policy Statement (SPS) provides succinct and helpful clarity on what government expects of Ofwat by way of priorities, including a strong consumer focus in its language. For example, in the Water SPS, affordability was far more central in the document. There is more clarity as to what the Regulator can influence, around issues such as, affordability and focus on prevention of problems for customers. It is also noted that there is a higher ambition of vulnerability within the Water SPS, where the needs of vulnerable are met and a focus on best value as opposed to lower costs].
- The Ofcom Statement of Strategic Priorities (SSP) makes clear that it ‘requires Ofcom to take all opportunities to improve the consumer experience in the telecoms sector, particularly for vulnerable consumers, including those with disabilities. Importantly, the Ofcom SSP also addresses intergenerational matters, giving Ofcom a specific steer on trade-offs; ‘The Government’s view is that promoting investment should be prioritised over interventions to further reduce retail prices in the near term.’ [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/952627/SSP_-_as_designated_by_S_of_S_V2.pdf para 18. It also sets out that ‘The Government’s aim is to promote investment and competition in world-class digital networks, to as many people and businesses as possible’ and that ‘Investment in new networks by BT and alternative providers is key to improving consumer outcomes, in terms of choice, service quality, and innovation’],

Consultation question 3 Given the Future System Operator does not exist yet but will need to have regard to the strategy and policy statement once it does, do you consider that we have effectively reflected the Future System Operator’s role in this document?

As noted, we welcome creation of a strategic independent whole-system operator and planner with a cross-vector role.

To date, no single document brings together in a clear and transparent way the duties, role, responsibilities and priorities of the FSO. The SPS is a helpful start, but many basic questions still remain about the actual role, capability and near-term priorities of the FSO. We also question the

realism of a long and ill-defined 'bucket-list' of issues assumed to become the responsibility of the FSO. In practice, very little is clarified on the FSO role via the SPS. For example:

- Future of gas networks and stranding risk: with hydrogen and long-term gas system planning an FSO responsibility, the SPS is silent on where responsibility will sit for strategic thinking around the future for gas networks and possible stranding risk.
- Regional system planner: addressing how far the FSO might be given either a 'thick' or a 'thin' regional coordination role on regional system planning, including what this means for electricity distribution networks, the future DSO role and the gas distribution networks. Questions arise as to how far the FSO can be expected to work closely with local authorities and other local stakeholders as opposed to co-ordinating what the DNOs and the GDNs are increasingly doing. Duplication of responsibility and effort is also a concern and it remains far from clear that the FSO is best placed to take on an essentially place-based role. We have set out our views on this issue in our response to Ofgem's consultation on local governance but remain unclear from the draft SPS whether this is ultimately a decision for Ofgem or is part of a broader debate on the FSO role (through this consultation on the SPS).
- Competition and network tenders: there are still many open questions around this including whether for transmission or for both transmission and distribution? How far the expected competition model facilitated by the FSO might be build, own, transfer and / or operate? These are vital issues with respect to pace of delivery and overall coordination of network-build and operation to meet 2035 decarbonisation goals and thereafter 2050 net-zero targets for transport and heat. Further, in a world where the FSO drives network competition the SPS must clarify accountabilities and liabilities as between Ofgem, the FSO and the companies - including for security of supply and / or the costs of inefficient delivery.
- Statutory Duty on Consumer Impacts (SPS p 15): the text in the SPS on this FSO duty on consumer impacts needs considerably more thought and attention as to how the FSO will discharge such a duty in practice and indeed whether this is an appropriate set of responsibilities for the FSO whose skills are essentially technical:

Sustainability First has many years' experience of developing successful consumer and stakeholder engagement models, in both the water and energy sectors. This includes the Power Responsive programme for the ESO and working with DESNZ on the REMA End-User Forum. The FSO will need extremely clear guidance from government and from Ofgem on the expected outcomes from its consumer impact duty and how in the end this will be judged, including clarifying possible overlaps with government, Ofgem, Citizens Advice or other regulators.

Overall, we see many of the challenges with the FSO being around process: how it will work with other networks – and indeed what the relationship will be between Ofgem and the FSO given that Ofgem will both regulate the FSO but also be heavily dependent on it.

We hope that these reflections are helpful and would be happy to discuss further if that would be of value.