

Public Value, Purpose, Policy and Regulation in Energy and Other Utilities

Introduction

This Briefing summarises the latest research from Sustainability First's major 3-year '[Fair for the Future](#)' project. This project has mapped the disruptive landscape of risks and opportunities behind the case for public purpose orientated utilities and set out what companies need to do to move in this direction (including how progress can be measured) and the implications of this for policy and regulation in the energy, water and communications sectors. This Briefing is primarily focused on energy.

Public Value and Purpose in Utilities

The extent to which short term shareholder returns should be the main focus of corporate strategy has been questioned increasingly over the past few years. Even mainstream players such as Larry Fink – chair of Blackrock, the major investment fund – now accept that a wider focus on purpose, and specifically on Environment, Social and Governance factors, is a long-term driver of shareholder value. Nowhere is this truer than in public utilities. These sectors deliver 'essentials of life': water, energy and digital access. They are core to answering the long-term challenges of net zero, climate resilience and protecting nature.

As the Government refines its post-pandemic economic growth strategy, these sectors will be more than ever under the spotlight as deprivation increases and the focus increasingly falls on achieving a 'fair transition' to net zero. Where utility companies are monopolies, a focus on public value and purpose is important for them to maintain their licence to operate and justify their continued existence in the private sector.

Our major new Report, [Regulation for the future: The implications of public purpose for policy and regulation in utilities](#), analyses what the public purpose agenda means for regulators and policy makers. In-depth research explores what government actors can do to encourage a stronger focus on purpose in energy, water and comms companies, in

the process helping to drive value creation and resilience for all stakeholders.

Future Energy Regulation

Our analysis is important for future energy policy and regulation: how Ofgem delivers on its Decarbonisation Action Plan and conducts RIIO3 and considers long term investments outside price reviews, and for the Government's planned new statutory duties for, and Strategic Policy Statements to, Ofgem. It is also crucial for future appointments to Ofgem's board – including future chair appointments. Thirty years since the design of the current regulatory system, it requires more than incremental change to address the challenges of the next 30 years.

We are encouraged by Ofgem's approach to adaptive regulation and Government statements about new statutory duties and Strategic Policy Statements. However, we are concerned by the continued adversarial relations between regulators and some companies – as exemplified in RIIO2. The continued tendency from government and regulators to push long term issues right and to underplay the legitimate expectations of the next generation is a major obstacle to net zero, climate resilience and preserving the natural environment. A series of one-shot games will not deliver for people or planet.

Companies Need to Play Their Part

We do not absolve companies from the responsibility to act themselves, and argue strongly that regulators cannot impose public value: ownership for the agenda in companies needs to sit across the organisation – not be nested in regulatory affairs or PR. Our '[How to](#)' Guide that we published in September 2020 set out what companies can do to put talk about corporate purpose into action. But whilst companies need to show leadership, it is important to recognise that they don't operate in a vacuum. Public value cannot be fully delivered without a much more supportive culture in regulators, founded on endorsement and encouragement from policy makers.

Key Recommendations for Policy and Regulation

1. Trust, culture and principles: A comprehensive package of measures is urgently needed to create 'an infrastructure of trust' and fundamentally different culture on all sides. Government, regulators and

companies need to work hard to build safe spaces for mature discussion of difficult issues. A new set of [‘Sustainability Principles’](#) for economic policy and regulation is needed to create the appropriate values and norms for purposeful business.

2. Who pays for welfare: Government needs to urgently clarify how it sees the balance going forwards between the welfare system and energy company (retail and network) support for people in fuel poverty. The debate of who pays – bill-payers or tax-payers – cannot be ducked any longer.

3. Citizen interests: Policy and regulation in utilities needs to move from a focus primarily on consumer interests to also include citizen (and future citizen) interests. All parties need a significant reappraisal of the role of place, local democracy and communities in utilities, particularly where these are place-based anchor institutions in a local area.

4. Price reviews: Regulators should only do those things through formal price reviews which cannot be done well through other routes. They should take those parts of company business plans which are high on social/environmental content – particularly if hard to monetise – and relatively low on bill impacts – out of the price review process (where this is based around comparative competition, outcome incentives and econometrics).

5. Adaptive planning: A fundamentally new process of ‘adaptive planning’ is needed – with future thinking and scenarios at the heart of infrastructure investment plans and plans which deliver over multiple price control periods.

6. Regulatory duties: at a minimum Ofgem, Ofwat and Ofcom should all have net zero statutory duties. Ofgem should also have climate resilience duties, in the same way that Ofwat currently has.

7. Strategic Policy Statements: Government should widen its use of Strategic Policy Statements to Ofgem, including to: ensure that long-term issues are not deferred unnecessarily; require improved liaison with Local Authorities and directly elected mayors; and

direct more strategic inter-regulator working on systems issues, such as climate and resilience, and common issues, like culture and governance – where there is an opportunity to more widely leverage the work of the Financial Reporting Council.

8. Climate adaptation: Government should further develop its net zero and fairness agenda, to cover climate change impacts and wider resilience needs.

9. Stakeholder engagement: There remains a strong role for formal company level independent groups and wider company stakeholder engagement (although the remit needs to focus more on purpose, local/community engagement and fairness and culture). Taking some issues to regional or national level – via regulators and policy makers as appropriate – and using deliberative forums such as citizens’ assemblies is also necessary.

10. Third-party assurance: Regulators should institutionalise a significant role for third party and risk-based assurance, concentrating instead on the things only regulators can do well, thereby deescalating at least part of the current regulator/company tension.

Conclusion

A focus on public value and purpose in the energy sector and other utilities is essential to meet the challenges of net zero, climate adaptation and biodiversity loss – and to ensure a fairer future for all in a disrupted world. Government and regulation need to support and foster the shift to the purpose agenda. This includes a stronger focus on long-term interests to ensure the resilience of our essential services for people and planet. Sustainability First’s ‘Regulation for the future’ Report provides creative and practical suggestions as to how this can be done.

Government itself also needs to show leadership in this area. Providing a central hub for co-ordinating support for purposeful business is essential. [Responsible business currently doesn’t have a ‘home’ in Government.](#) BEIS is the natural Department to champion this work. Embracing this role would send a strong signal that purpose is important for business, policy and regulation; and, indeed, us all.