

Fairness in utilities: What are the implications of public purpose for companies, policy makers & regulators?

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Context and overview of the Fair for the Future Project

Background

- **Utilities** such as energy, water and communications are essential services for modern living. They are a key part of our critical national infrastructure
- Ensuring the companies that deliver these services, and the policy and regulatory frameworks in which they operate, are seen as **'fair'** is crucial
- It's crucial to build trust within and between generations and to maintain the **social contract** whereby private capital is used to deliver public value
- Sustainability First set up the **Fair for the Future project** in 2018 to help utilities better address the politics around fairness and the environment
- The project was established before the Labour Party put forward its proposals for nationalisation and before the government made its commitment to net zero
- Since 2018 the case for fairness, sustainability and public purpose in utilities has only increased

Context

- The **environmental challenges** facing utilities are increasing: decarbonisation is only one issue. Utilities also face the current and growing need to adapt to climate change. And in the water sector in particular, but also in other sectors through supply chains, there are real biodiversity challenges that the HMT recent Dasgupta Review has starkly set out
- **Social issues** are also on the rise. The deep social inequalities in our society, which were already reflected in levels of fuel and water poverty and problems accessing broadband, have been significantly exacerbated by the pandemic. Deprivation and vulnerabilities are growing and shifting. **Latest Citizens advice figures – 1 in 3 people have lost income in the pandemic and 6 million fallen behind on bills due to coronavirus pandemic.**
- And **technology** is not standing still. Whilst this presents significant opportunities, the effects of AI and big data can also have negative impacts around jobs and legitimacy

Time for change

- We are in what many commentators have called a **decisive decade** for decision makers – not just for climate action but also for a fairer future.
- Given the importance of utilities in our everyday lives, the energy, water and comms sectors are very much at the sharp end of dealing with these problems.
- However, as anchor institutions in their communities, and key enablers of the net zero transition and public health, utility companies can also be at the forefront of developing positive solutions
- In **monopoly utilities**, we now have a window of opportunity for change before the next water price review and, to a slightly later time scale, for the next energy network price controls, to make the case for purposeful change
- At Sustainability First, we consider that given the current context, and the fact that it is now 30 years since privatisation, a fundamental rethink of the policy and regulatory environment in which utilities operate is needed.
- A rethink which considers how companies, policy makers, regulators and investors can work together – not pitted against each other - to deliver more sustainable outcomes
- Yes – we’ve had significant utility activity at the **CMA**. This activity is clearly relevant to questions of fairness but this is not a conference on the work of the CMA
- The case for change goes much wider
- Investors are calling for this: Larry Fink, Blackrock’s CEO, is now focused on the ‘sustainability premium’ and how a focus on purpose and Environmental, Social and Governance (ESG) factors in investment can drive long-term value creation.
- Companies have woken up to the business case for change. Many are already doing significant work around purpose and fairness. And many are starting to get a better grasp of how to measure their social and environmental impacts

Government proposals for change

- And government too recognises the wider need for change, as seen in the Ten Point Plan for a Green Industrial Revolution, the National Infrastructure Strategy and the Energy White Paper. Yes the Sixth Carbon Budget highlights the scale of the implementation challenge but the need for change is now accepted
- For utilities, the forthcoming Treasury Review of economic regulation will be critical to ensure regulatory frameworks are fit for the future. The reviews of regulatory duties

and Strategic Policy Statements have the potential to significantly shape the approach of the sectors to critical social and environmental issues for the decades ahead.

- And the forthcoming BEIS consultation on affordability and fairness in energy will be crucial for that sector and the delivery of net zero more broadly.

Sustainability First's work addresses these questions

- Sustainability First's Fair for the Future project's work on fairness and purpose in utilities is absolutely central to these reviews.
- Whether you call it purpose or public value or social value is neither here nor there. Let's not get hung up on terminology.
- The key thing is to get a fundamental shift in corporate approaches, policy and regulation to enable utilities to better address the social, environmental and economic challenges faced. To turn the sectors from being part of the problem to being part of the solution

The Fair for the Future Project's Research

- Our research has systematically sought to chart a way forward in this area. Through our deliberative approach, since 2018 we have published a significant volume of research on utilities and purpose. All of this body of often primary and ground-breaking research is available on our website. We'd encourage you, if you haven't yet visited, to take a look.

What companies can do

- We began the project by examining what utility companies themselves can do to put public purpose into action.
- We started our research with companies – and not government - as we consider that it's vital that if a company wants to use private capital to deliver public value, and to be seen as trusted and legitimate, it must be able to demonstrate that it is having a beneficial public impact and show leadership in this area.
- In 2018 we produced a comprehensive strawman on what a 'sustainable licence to operate' looks like for the energy, water and comms sectors.
- Following extensive workshops and bilateral calls with companies to understand how they are putting talk into action, last year we produced a 'How-to' guide for systematically developing and embedding a purposeful business approach in essential services.

- This guide sets out what good looks like in utilities. It identifies four key themes that need to underpin this: ongoing stakeholder engagement; the demonstration of delivery of public value; people and culture; and an integrated approach to public value.
- These themes, and the how to guide, provide a comprehensive and tailored tool kit for putting fairness and purpose at the heart of essential services

Risk

- The next issue we looked at was risk. We had already identified from the academic literature that taking a compliance-based approach to issues around fairness and sustainability was necessary but unlikely to be sufficient to deal with the challenges faced.
- We asked ourselves how far utilities really understood the social and environmental risks their businesses faced, the key factors driving these and how, if left unchecked, these could lead to regulatory risk and policy uncertainty.
- We reviewed utility company approaches to risk and their risk appetite for key social and environmental factors and produced a guide for company boards on risk and resilience.
- Our risk framework proved valuable to board looking to navigate through initial stages of Covid in a way that mirrored the values they aspire to

Metrics

- Given the challenge companies can face in demonstrating that they are acting responsibly – particularly given the millstone of history of, in some cases, past bad behaviour, poor performance and excess returns - we produced a ‘Sustainability metrics’ report that examined the issue of reporting and ESG through a specific utilities lens.
- These metrics are vital to help regulators identify genuine approaches to responsible business and to avoid purpose wash.

Policy and regulation

- Whilst there is a significant amount that companies need to do themselves to deliver public value, they clearly do not operate in a vacuum.
- The legal, policy and regulatory frameworks in which they operate can both help and hinder their ability to have a beneficial social and environmental impact.
- Following almost a year of pro bono work from Slaughter and May, last December we published a set of notes on sustainability, law and regulation in the utilities sector.

- These concluded that companies, regulators and policy makers already have a tremendous amount of flexibility in how terms of how they approach sustainability. The key question is often **how** to interpret, and then implement, change.
- Building on this work, and following workshops on the role of stakeholder engagement and adaptive regulation, we have now published a concluding project report on Regulation for the future and the implications of public purpose for policy and regulation in utilities.
- Martin Hurst, my colleague who wrote this report, will be taking us through the key findings of his work after the break and our second panel will be exploring these issues in more detail.

Culture

- As with our work on companies, with policy makers and regulators, one of the key issues that we keep coming back to is culture.
- How do we move away from a culture which all too often treats social and environmental factors as purely transactional short-term consumer issues that are peripheral to the core business and dealt with in silos or as goals to be competed over in adversarial one-shot games?
- The principles that underpin economic policy and regulation are important here. We will be coming back to these at the end of the conference when we will highlight our forthcoming work in this area.
- To help us understand how to meaningfully change corporate and regulatory culture to really put purpose front and centre, I'm delighted to be able to hand over to Professor Colin Mayer who has written extensively on this subject and personally spearheaded world leading research in this area.