Judicial Review Trends and Forecasts 2021: Accountability and the Constitution

Introduction

The story of our constitution is much like the story of the United Kingdom itself: 'an everlasting animal stretching into the future and the past, and, like all living things, having the power to change out of recognition and yet remain the same'(1) , to borrow a line from Orwell, one of my favourite authors. Professor AV Dicey refers to it as 'the most flexible polity in existence'(2).

The value of our legal system has been long held in high regard: in the 18th century Blackstone wrote about 'our laws and liberties' and constitution, 'this noble pile', as 'the best birthright and noblest inheritance of mankind'(3). Indeed, this assessment resonates in the 21st century: the predictability, certainty, and flexibility of our legal system, the world-class expertise and integrity of our legal profession make English law one of the most popular choices of governing law for international contracts; and make UK courts one of the most popular jurisdictions.

But this flexibility, this resilience, should not obscure the central principle embedded in the very heart of our constitution, of fundamental importance since at least 1689. That principle is Parliamentary Sovereignty – it both underpins and anchors our constitutional settlement. I agree with the position as advanced by Lord Bingham in Jackson v Attorney General: 'The bedrock of the British constitution is, and in 1911 was, the supremacy of the Crown in Parliament . . . Then, as now, the Crown in Parliament was unconstrained by any entrenched or codified constitution. It could make or unmake any law it wished. Statutes, formally enacted as Acts of Parliament, properly interpreted, enjoyed the highest legal authority.(4)'

Given the unwritten nature of our constitution, there will always be disputes as to the proper role of the Courts in interpreting Parliament's legislative supremacy, but recent years have tested our shared understanding in unprecedented ways.

The cases of Adams(5), the two Miller cases (67), Evans (8) / UNISON (9) and Privacy International(10), to name but a few, have strained the principle of Parliamentary sovereignty and introduced uncertainty into the constitutional balance between Parliament, the Government, and the Courts.

I accept that there are debates as to the proper scope of Parliamentary Sovereignty, and how and when the Courts should intervene. However, it is crucially important that we neither permit, facilitate nor encourage judicial review to be used as a political tool by those who have already lost the arguments.

Because what we have seen is a huge increase in political litigation, that is to say, litigation seeking to use the court system, and judicial review, to achieve political ends. To take one example, the attempted judicial review of former Prime Minister Theresa May's triggering of Article 50 in the case of Wilson & Others v Prime Minister(11). In that case, judicial review was refused at the permission stage, because it was on the basis of both delay and want of merit, with a costs order against the applicants of over £17,000. The court commented 'that the applicants were inappropriately pursuing what was effectively a political campaign through the courts' – and a 48-page skeleton was dismissed as 'particularly weak'. Of course, the government has to spend time and money responding to such challenges – and often the full economic cost of doing so is never recoverable. Even though the Government remains successful in nearly 65% of the judicial reviews against it, it is vital that judicial review does not become the vehicle of choice for failed political campaigners. Referenda, elections and political fora are the appropriate settings for such arguments. To paraphrase Clausewitz, litigation must not be the continuation of politics by other means (12). The taxpayer frequently ends up footing the bill, especially now that campaigning organisations use crowd-funded litigation to achieve political aims. To acquiesce in the face of such activity undermines the Rule of Law, and creates endless uncertainty as to what the law is.

It is properly open to Parliament to respond to that trend.

Recent jurisprudence

Let me explore then, briefly, some cases that fall into this category and the contradictions and confusions inherent in them. I raise these examples, not to undermine the judges or their judgments – which are of course both entitled to the greatest respect, and in our system are beyond reproach, and rightly so. Rather, I am engaging in a tradition that is just as important, the back and forth testing and challenging of legal reasoning, which goes back to the old inns of court. I accept their decisions, even if I disagree with them. We also see in the litigation some trends in judicial review that are worth reflecting on, and that is an increasing tendency for judges to be called to answer complex political or policy questions. Writing in a similar vein in 2016 – reflecting on the decision in Evans– Professor Christopher Forsyth put it well. And forgive me for quoting one of my erstwhile lecturers.

The judiciary, being independent, will not be swayed in the slightest by this criticism in the making of decisions. But those of us who defend the judiciary in general and judicial independence in particular must hope sincerely that the judiciary stay true to their vital task of simply applying and interpreting the law. Giving themselves grandiloquent tasks – guardians of constitutional principle, etc – as a mask for the arrogation of power properly that of the legislature or the executive lends credence to the criticism of judges as unelected officials who stray too readily into the realm of the demos (13).

It seems that Professor Forsyth's comment was prescient, because over the next few years we saw significant decisions on highly charged issues: most

notably the Miller litigation. Although I might easily discuss either Miller judgment here, it is on the second Miller case I will focus now.

The second Miller case is a stark warning of how far jurisprudence has moved. Of course that was at a time of unusually high political tensions. Yet, in concluding that the decision to advise Her Majesty to prorogue Parliament for five weeks was unlawful, the Supreme Court stepped into matters of high policy in which the UK courts have historically held themselves to have no constitutional role.

Questions around the prorogation and dissolution of Parliament fit squarely within Article IX of the Bill of Rights, and are in any case not justiciable as exercises of prerogative powers. Generations of judges and jurisprudence have agreed, despite innumerable upheavals and crises (14). However the Supreme Court creatively circumvented this consensus. In my opinion, it is clear that, on a plain reading of Article IX, the conclusion of the Court is not supported. As such, those questions are not properly amenable to judicial review (15).

The categorisation of the decision to prorogue Parliament as justiciable by reference to a hypothetical example where a Government might seek to prevent Parliament exercising its legislative functions indefinitely was inapt.

The Supreme Court used this as justification to invent a legal test, albeit not, as it was claimed, one concerned with the mode of exercise of a prerogative power within its lawful limits.

The Court held that a decision to prorogue Parliament (or to advise the monarch to prorogue Parliament) will be unlawful if the prorogation has the effect of frustrating or preventing, without reasonable justification, the ability of Parliament to carry out its constitutional functions as a legislature and as the body responsible for the supervision of the executive.

But the questions at the heart of that test are inherently and deeply political. They are not, as was suggested, questions of fact. The Court reached its own conclusions on the importance of the political matters then being resolved. The judgment recast previously clear divisions between the justiciable and the non-justiciable, between convention and law.

The Wightman case (16), in which the Inner House of the Court of Session was prepared to accept jurisdiction in a case in which, in my opinion, it was being used tactically to influence ongoing proceedings in Parliament was another stark example. The claimant raised an abstract legal question (whether the government could withdraw the triggering of Article 50), seeking to constrain future possible government action. The use of Court proceedings to constrain ongoing political and Parliamentary debates set a dangerous precedent (17).

One of the reasons for the long-term health of the constitutional arrangements of this nation has been admirable restraint shown by the Courts when it comes to matters of high political controversy. But the radical departure from orthodox constitutional norms severely threatens the delicate

balance inherent in those arrangements.

Privacy International

The Supreme Court’s judgment in the case of Privacy International was also profoundly troubling for a number of reasons. A decision by Parliament to limit the judicial review jurisdiction of the Courts should only be taken after the most serious consideration by the legislature. And there may well be circumstances where Parliament does consider that to be appropriate.

In such circumstances, the Court should be very slow to deprive legislation of its proper meaning, particularly when, as with s.68(7) of the Regulation of Investigatory Powers Act 2000, as it was, the language, and thus the intention of Parliament, is evidently clear.

But the judgment in Privacy International even contained suggestions, albeit obiter, that, for nebulous reasons attributable to the Rule of Law, the Courts may on occasion wholly disregard properly enacted Acts of Parliament (18).

One corollary of the principle of Parliamentary sovereignty, at least as traditionally understood (19), is that it is not for the Courts to question primary legislation properly enacted by Parliament, or to interfere more broadly in Parliamentary proceedings. Again, this is clear from Article IX of the Bill of Rights and, until recently, has been almost universally unquestioned. In 1974, in British Railways Board v Pickin (20), the House of Lords was invited to do so, and robustly dismissed the invitation:

The idea that a Court is entitled to disregard a provision in an Act of Parliament on any ground must seem strange and startling to anyone with any knowledge of the history and law of our Constitution, but a detailed argument has been submitted to your Lordships and I must deal with it.

I must make it plain that there has been no attempt to question the general supremacy of Parliament. In earlier times many learned lawyers seem to have believed that an Act of Parliament could be disregarded in so far as it was contrary to the law of God or the law of nature or natural justice but since the supremacy of Parliament was finally demonstrated by the Revolution of 1688 any such idea has become obsolete (21).

Once again, the Courts appear to have moved, or at least, in this case, been thinking about their next steps, in ways that generations of judges and lawyers wouldn’t have countenanced. And for sound constitutional and democratic reason.

Adams

Finally, the case of Adams (22). This case considered Gerry Adams’ historic convictions for escaping custody, but introduced significant uncertainty into a core constitutional principle while straining legislative language. The Supreme Court found that the Detention of Terrorists (Northern Ireland) Order 1972 did not permit the delegation of decision making under Carltona principles.

The Carltona principle provides, in effect, that the powers and duties exercisable by a senior minister may generally be exercised by those junior ministers and civil servants for whom he or she is constitutionally responsible. It is rare indeed that legislation requires that authority exercised under Carltona be delegated explicitly or formally. Reading the 1972 Order alongside the Carltona principle, there is little, if any, doubt as to the real meaning of the law.

But, in caveating and declining to apply Carltona principles, in particular in applying a political judgment as to the gravity of the consequences flowing from the exercise of the power, the Supreme Court introduced significant uncertainty into a matter that had previously been widely understood.

It was also forced to adopt a deeply strained, if not implausible, approach to statutory interpretation. I know that Ministers and officials routinely rely on Carltona doctrine to make decisions. Without Carltona, senior ministers would spend all their time making routine decisions and would not have time to devote to things like giving speeches on important matters to eminent audiences such as this one! (23)

More recent judgments

There are some who argue that the Miller, Adams and others were exceptional and that we are now witnessing a return to a more orthodox approach (24). It is true, and to my mind welcome, that in at least one recent decision the Court seemed keen to reassert a more traditional approach to judicial review.

Paragraph 162 of the recent case of SC and others, is important. The Court considered that:

challenges to legislation on the ground of discrimination have become increasingly common in the United Kingdom. They are usually brought by campaigning organisations which lobbied unsuccessfully against the measure when it was being considered in Parliament, and then act as solicitors for persons affected by the legislation, or otherwise support legal challenges brought in their names, as a means of continuing their campaign. The favoured ground of challenge is usually article 14, because it is so easy to establish differential treatment of some category of persons, especially if the concept of indirect discrimination is given a wide scope. Since the principle of proportionality confers on the courts a very broad discretionary power, such cases present a risk of undue interference by the courts in the sphere of political choices. That risk can only be avoided if the courts apply the principle in a manner which respects the boundaries between legality and the political process.(25)

I agree wholeheartedly with Lord Reed that the Courts must be alive to the risk of undue interference in matters which are properly political, and which should be resolved through political discussion and democratic Parliamentary process. The Supreme Court judgment in Begum (26) was another example whereby the Court recognised the importance of the statutory scheme enacted by Parliament, and for which the Home Secretary was democratically accountable

to Parliament, and gave it due weight. Professor Ekins rightly lauded the decision affirming the Home Secretary's statutory power, and restating wider limits on the judicial function, as the Supreme Court panel doing its bit to vindicate the rule of law (27).

However, we also see an increased readiness to import HRA-style proportionality into judicial review. The judicial 'habits' learned over the years have obviously influenced other areas of law (28) – with the Supreme Court entertaining the idea of proportionality as a general ground of judicial review. Senior judges, including Sir Philip Sales (29) (as he then was) have rightly said this would be an 'illegitimate legislative act', and is not something courts should countenance.

But I would say that there will be perfectly legitimate instances where the Government could decide that it is nevertheless worthwhile and important to invite Parliament to legislate to overturn individual decisions. Indeed, this point was made very clearly in the Independent Review of Administrative Law – which recommended the legislative 'overturning' of the decision in Cart, an immigration case. Even if we think the pendulum has returned to a more traditional balance, with courts taking a more prudent approach to the determination of political issues, the fact remains that the mould has been broken. There can be no guarantee that in a future case the Supreme Court might again choose to intrude upon territory well beyond its scope and in doing so usurp the power that should be the sole preserve of those directly answerable to the people. Power that is held by virtue of a mandate that can only be expressed through the democratic process.

So where does that leave us?

The Queen's Speech in 2021 included a commitment to restoring "the balance of power between the executive, legislature and the courts" (30). Let me be clear, I wholeheartedly support that intention.

The Judicial Review and Courts Bill received its first reading in July 2021 (31). That Bill includes a number of reforms. While I do not propose to review those in any great detail during this speech, it is instructive how the Bill has been received. There has been little, if any, suggestion that it is not Parliament's right, or that Parliament is not empowered, to overturn decisions of the Supreme Court (for example that of the Cart judicial review jurisdiction). The principle would thus appear to be broadly accepted. Indeed, several academics have suggested the Bill could go further – the most consistent contributions on this front have been from Policy Exchange's Judicial Power Project, which have put forward several papers on this topic, sparking constructive debate (32).

To suggest that Parliament might intervene to overturn jurisprudence that it considers to be wrongly decided is not to suggest that the Courts should not be independent. To the contrary, an independent, apolitical, judiciary is crucial to upholding the Rule of Law. But in our system, the framework that those judges should apply is a matter apposite for Parliamentary scrutiny.

In a similar vein, I will always support lawyers who take on difficult cases,

and it is of crucial importance that they are free to do so. It has to be right in a free society that everyone should be able to seek legal advice to understand their rights and put their case to one of those independent judges. The recent criticism of Dinah Rose QC by students at the University of Oxford (33) for acting, entirely appropriately, for a Sovereign Government is completely wrong. But, in other circumstances, when lawyers cloak themselves in a political cause, it is difficult to take them seriously when they complain about criticism. While abuse or intimidation has no place in our society, as I know better than many, if you step into the political arena, your political motivations and beliefs become fair game for criticism.

Sir Stephen Laws wrote in his submission to the Independent Review of Administrative Law (34) that:

Ultimately, law cannot guarantee individual liberties or good governance unless it is supported by a culture of responsible politics which fosters collaboration, rather than the polarisation of political opinions. The risk of too much intervention by the law in politics is that it can undermine the culture on which law itself depends for its effectiveness in relation to other matters as well. Responsible politics requires incentives to listen to other points of view and to conduct civilised debate to convince others. None of that is necessary if the authority of the law can be enlisted to force the views of one side on the other (35).

For the reasons I have outlined briefly, it is my view that the last decade or so has demonstrated an increased appetite for political litigation, and, more worryingly, an appetite for putting judges in an invidious position, by asking them to decide essentially political matters on applications for judicial review.

Whether or not there is indeed a new direction of travel – or a return to a more conventional approach – it is important that we recast the mould. The ramifications of not doing so are profound. We should not dismiss them lightly. The legitimacy and reputation of our judiciary, which is inextricably linked to its political neutrality, is at stake. The authority of the judiciary must never again be pitched against the authority of the people. The confidence upon which our judiciary depend for their authority will be diminished. The rule of law itself will be weakened. The excellent speakers and panels lined up over the next days will of course have their own views, based on a range of their experience in different parts of our legal and political system. I’m pleased to be followed by David Gauke, the Rt Hon David Lammy MP, and Sir Jonathan Jones QC, who are well placed to comment on these tricky issues.

But I’d like to finish near to where I started, on the fundamental place of parliamentary sovereignty. As Lord Sumption has reminded us, while the courts have a vital role, it is Parliament that has ended up supreme for a reason. I will end with a comment he made in his Reith lecture – and even if he is not so complimentary of politicians, I can’t help but agree with him!

It is the proper function of the courts to stop Government exceeding or abusing their legal powers. Allowing judges to circumvent parliamentary

legislation, or review the merits of policy decisions for which Ministers are answerable to Parliament, raises quite different issues. It confers vast discretionary powers on a body of people who are not constitutionally accountable for what they do. It also undermines the single biggest advantage of the political process, which is to accommodate the divergent interests and opinions of citizens. It is true, politicians do not always perform that function very well. But judges will never be able to perform it (36).

To conclude, if we keep asking judges to answer inherently political questions, we are ignoring the single most important decision maker in our system: the British people.

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6. [2017] UKSC 5
7. [2019] UKSC 41
8. [2015] UKSC 21
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10. [2019] UKSC 22
11. [2019] EWCA Civ 304
12. C von Clausewitz 'On War' Vol 1 (1918), Chapter 1
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17. Sir S Laws, Judicial Intervention in Parliamentary Proceedings (Policy Exchange, 2018), available at https://policyexchange.org.uk/publication/judicial-intervention-in-parliamentary-proceedings/

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20. [1974] UKHL 1
21. Ibid. at p 2
22. [2018] NICA 8
23. See Professor R Ekins and Sir S Laws, Mishandling the Law, (Policy Exchange, 2020), available at: https://policyexchange.org.uk/publication/mishandling-the-law/
24. Tomkins
25. [2021] UKSC 26
26. [2021] UKSC 7
27. Professor R Ekins ‘The significance of the Supreme Court’s Begum judgement’ Policy Exchange (2021), available at: https://policyexchange.org.uk/the-significance-of-the-supreme-courts-begum-judgment/
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29. Sir Philip Sales, “Rationality, Proportionality and the Development of the Law” (2013) 129 LQR 223; see further Professor T Endicott, “Why Proportionality is not a General Ground of Judicial Review” (2020) 1 Keele Law Review 1 and contrast Professor P Craig, “Reasonableness, Proportionality and General Grounds of Judicial Review: A Response” (2021) 2 Keele Law Review 1.
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Crime news: tender process opens for 2022 crime contract

News story

Procurement process opens for delivery of criminal legal aid services from 1 October 2022.

Organisations are invited to tender for a new crime contract starting on 1 October 2022.

The procurement process opened on 19 October and the deadline for submitting a tender is 5pm on 30 November 2021.

This opportunity is open to both existing crime contract holders and new entrants.

The Legal Aid Agency (LAA) is offering an unlimited number of contracts. All organisations that successfully tender will be awarded a contract subject to verification.

Length of contracts

The 2022 crime contract will run from 1 October 2022 to 30 September 2023. This is subject to the LAA's right to extend for up to a further 2 years.

How do I tender?

Tenders must be submitted using the LAA’s eTendering system.

Tender deadline

Tenders must be submitted by 5pm on 30 November 2021.

Further information

Crime contract 2022 tender – to find out more and download the ‘Information For Applicants’ document

eTendering system – to submit your tender

Email help@bravosolution.co.uk or telephone 0800 0698630 for technical questions about using the eTendering system

Published 19 October 2021

OSCE anti-corruption event, 18 October 2021: UK remarks

Madam Moderator, dear Excellencies,

The UK would like to thank the Swedish Chairpersonship for dedicating this year’s Economic and Environmental Dimension Implementation Meeting to the theme of anti-corruption. It is a sign both of the shared understanding of the scale of the problem – and a demonstration of what can be achieved when States come together – that OSCE participating States last year successfully agreed on a new commitment on this topic at the Ministerial Council in Tirana.

The fight against corruption is a fight against a pernicious and persistent crime – one that impedes prosperity, denies justice, and threatens global security.

In the UK we have sought to tackle corruption and illicit finance through a strong legislative framework, including through the 2017-22 UK Anti-Corruption Strategy, which sets out a vision of anti-corruption action, making over 100 fully-resourced commitments.

But there is more we can do. Corrupt actors will always look for innovative ways to exploit the public purse, and we need to continue to be alive to where our weaknesses are. That is why the UK seeks to tackle corruption

through a ‘whole-of-government’ approach, which we do via our government-wide strategy and a government-wide joint unit.

Of course, we recognise that governments alone cannot win the fight against corruption. So, as well as a whole-of-government, we need a whole-of-society approach, with civil society, the media, NGOs, banks and the private sector all playing their part. I look forward to hearing from Transparency International and KPMG in Session 2 on the role they can play.

The anti-corruption effort must be an international one, and I would like to mention four examples where international cooperation – including through organisations like the OSCE – can help achieve results.

First, the UK’s International Corruption Unit investigates foreign corruption with UK links. Since 2006, over £1.1bn of assets stolen from other countries have been frozen, confiscated or returned. And an independent evaluation has found that this is beginning to have longer-term impacts, influencing the behaviour of the corrupt elites who perpetuate these crimes.

Second, the UK is home to the International Anti-Corruption Coordination Centre is the only organisation in the world that can provide dedicated operational support to grand corruption investigations affecting developing countries; from collecting and developing intelligence from its members and associate members, to supporting the resulting investigations.

Third, we support the International Centre for Asset Recovery, which between 2017-2020 helped recover more than £100 million of stolen assets.

And finally, the effect of international information-sharing. I am pleased that in Session 3 we will get to hear from the U4 Anti-Corruption Research Centre, of which my country has been a beneficiary. Our policy officers are able to commission U4 expert support to understand the latest evidence on particular issues or programming approaches they are considering.

More generally, I am pleased to see that there is a session dedicated to promoting the full, equal and meaningful participation of women, taking into account corruption’s disproportionate effect. We believe the fight against corruption is strengthened when we acknowledge this link. We were pleased that we were able to agree language on this important topic in the political declaration agreed at the recent UN General Assembly Special Session. As Co-Chair of the Group of Friends on the Environment, I would like to invite all delegations to participate in the side event at lunch time on how women leaders throughout the OSCE region play an important role in fighting corruption and conservation crime.

Madam Moderator, let me thank the Swedish Chairpersonship and Office of the Coordinator of Economic and Environmental Activities for their preparation of this Meeting, and I wish all of you and all of us a fruitful and enlightening conference.

Thank you.

UK’s path to net zero set out in landmark strategy

- Net Zero Strategy sets out how the UK will deliver on its commitment to reach net zero emissions by 2050
- outlines measures to transition to a green and sustainable future, helping businesses and consumers to move to clean power, supporting hundreds of thousands of well-paid jobs and leveraging up to £90 billion of private investment by 2030
- reducing Britain’s reliance on imported fossil fuels will protect consumers from global price spikes by boosting clean energy
- it comes as the UK prepares to host the UN COP26 summit next week, where the Prime Minister will call on other world economies to set out their own domestic plans for cutting emissions

A landmark Net Zero Strategy setting out how the UK will secure 440,000 well-paid jobs and unlock £90 billion in investment in 2030 on its path to ending its contribution to climate change by 2050 has been unveiled by the UK government today (19 October).

Building on the Prime Minister’s 10 Point Plan, today’s UK Net Zero Strategy sets out a comprehensive economy-wide plan for how British businesses and consumers will be supported in making the transition to clean energy and green technology – lowering the Britain’s reliance on fossil fuels by investing in sustainable clean energy in the UK, reducing the risk of high and volatile prices in the future, and strengthening our energy security.

The commitments made will unlock up to £90 billion of private investment by 2030, and support 440,000 well-paid jobs in green industries in 2030. This will provide certainty to businesses to support the UK in gaining a competitive edge in the latest low carbon technologies – from heat pumps to electric vehicles – and in developing thriving green industries in our industrial heartlands – from carbon capture to hydrogen, backed by new funding.

As part of the strategy, new investment announced today includes:

- an extra £350 million of our up to £1 billion commitment to support the electrification of UK vehicles and their supply chains and another £620 million for targeted electric vehicle grants and infrastructure, particularly local on-street residential charge points, with plans to put thousands more zero emission cars and vans onto UK roads through a zero emission vehicle mandate
- we are also working to kick-start the commercialisation of sustainable aviation fuel (SAF) made from sustainable materials such as everyday household waste, flue gases from industry, carbon captured from the

atmosphere and excess electricity, which produce over 70% fewer carbon emissions than traditional jet fuel on a lifecycle basis. Our ambition is to enable the delivery of 10% SAF by 2030 and we will be supporting UK industry with £180 million in funding to support the development of UK SAF plants

- £140 million Industrial and Hydrogen Revenue Support scheme to accelerate industrial carbon capture and hydrogen, bridging the gap between industrial energy costs from gas and hydrogen and helping green hydrogen projects get off the ground. Two carbon capture clusters – Hynet Cluster in North West England and North Wales and the East Coast Cluster in Teesside and the Humber – will put our industrial heartlands at the forefront of this technology in the 2020s and revitalise industries in the North Sea – backed by the government's £1 billion in support
- an extra £500 million towards innovation projects to develop the green technologies of the future, bringing the total funding for net zero research and innovation to at least £1.5 billion. This will support the most pioneering ideas and technologies to decarbonise our homes, industries, land and power
- £3.9 billion of new funding for decarbonising heat and buildings, including the new £450 million 3-year Boiler Upgrade Scheme, so homes and buildings are warmer, cheaper to heat and cleaner to run
- £124 million boost to our Nature for Climate Fund helping us towards meeting our commitments to restore approximately 280,000 hectares of peat in England by 2050 and treble woodland creation in England to meet our commitments to create at least 30,000 hectares of woodland per year across the UK by the end of this parliament
- £120 million towards the development of nuclear projects through the Future Nuclear Enabling Fund. There remain a number of optimal sites, including the Wylfa site in Anglesey. Funding like this could support our path to decarbonising the UK's electricity system fifteen years earlier from 2050 to 2035

The policies and spending brought forward in the Net Zero Strategy mean that since the Ten Point Plan, we have mobilised £26 billion of government capital investment for the green industrial revolution. More than £5.8 billion of foreign investment in green projects has also been secured since the launch of the Ten Point Plan, along with at least 56,000 jobs in the UK's clean industries – and another 18 deals have been set out at the Global Investment Summit to support growth in vital sectors such as wind and hydrogen energy, sustainable homes and carbon capture and storage.

Through energy efficiency measures, falling costs of renewables and more, the measures in the strategy also mean people's energy bills will be lower by 2024 than if no action was taken particularly as gas prices rise.

As the first major economy to commit in law to net zero by 2050 and hosts of the historic UN COP26 climate summit, the UK is leading international efforts and setting the bar for countries around the world to follow. The UK has hit every carbon budget to date – today's Net Zero Strategy sets out clear policies and proposals for meeting our fourth and fifth carbon budgets, and

keeps us on track for carbon budget 6, our ambitious Nationally Determined Contribution (NDC), while setting out a vision for a decarbonised economy in 2050.

Prime Minister Boris Johnson said:

> The UK's path to ending our contribution to climate change will be paved with well-paid jobs, billions in investment and thriving green industries – powering our green industrial revolution across the country.
>
> By moving first and taking bold action, we will build a defining competitive edge in electric vehicles, offshore wind, carbon capture technology and more, whilst supporting people and businesses along the way.
>
> With the major climate summit COP26 just around the corner, our strategy sets the example for other countries to build back greener too as we lead the charge towards global net zero.

Business and Energy Secretary Kwasi Kwarteng said:

> There is a global race to develop new green technology, kick-start new industries and attract private investment. The countries that capture the benefits of this global green industrial revolution will enjoy unrivalled growth and prosperity for decades to come – and it's our job to ensure the UK is fighting fit.
>
> Today's plan will not only unlock billions of pounds of investment to boost the UK's competitive advantage in green technologies, but will create thousands of jobs in new, future-proof industries – clearly demonstrating that going green and economic growth go hand in hand.

Both the Net Zero and Heat and Building Strategies build on the Prime Minister's Ten Point Plan in November 2020 which laid the foundations for a green industrial revolution, kick-starting billions of pounds of investment in new and green industries to help level up the country. To date, the UK has decarbonised faster than any other G7 country.

Published alongside these two strategies today is HM Treasury's Net Zero Review, an analytical report which explores the key issues as the UK decarbonises. It helps to build a picture of where opportunities could arise and the factors to be taken into account when designing decarbonisation policy. While there are costs in reaching net zero, the cost of inaction is much higher.

Please find the full Net Zero Strategy and the Heat and Buildings Strategy.

The strategies published today build on an ambitious set of existing policies: the Prime Minister’s Ten Point Plan for a Green Industrial Revolution, the Energy White Paper, North Sea Transition Deal, Industrial Decarbonisation Strategy, Transport Decarbonisation Plan, and Hydrogen Strategy, and the recent landmark commitment to decarbonise the UK’s electricity system by 2035.

The Net Zero Strategy will be submitted to the United Nations Framework Convention on Climate Change (UNFCCC) as the UK’s second Long Term Low Greenhouse Gas Emission Development Strategy under the Paris Agreement.

Also published today is UK’s first Net Zero Research and Innovation Framework which will support the delivery of the Net Zero Strategy by setting out the key net zero research and innovation priority areas for the UK over the next 5-10 years. Together these documents set out a long-term plan for the green economy that the govt will report against.

COP President-Designate, Alok Sharma said:

> The UK continues to show climate leadership as we publish our roadmap to net zero by 2050. It shows the wealth of opportunities, including thousands of new skilled jobs, that a transition to a green economy can herald.
>
> With COP26 opening in less than 2 weeks, leaders stepping up with more commitments has never been more urgent. I’m calling on countries across the world, particularly the G20, to commit to net zero by mid-century, ambitious 2030 emissions reduction targets and to set out credible implementation plans so we can limit global warming to well below 2C and keep the goal of 1.5 degrees within reach.

Energy and Climate Change Minister Greg Hands said:

> As we prepare to host the UN COP26 climate summit in Glasgow next week, the world is looking to the UK to show leadership and delivery as we plot our path to net zero emissions by 2050.
>
> Today’s plans will provide British consumers and businesses with the tools and the confidence they need to make the transition to clean energy, unlocking investment in low carbon technologies and creating high skilled jobs as we build a cleaner future that’s underpinned by a secure, home-grown energy sector.

Environment Secretary George Eustice said:

> Today’s plans set the UK on a clear path to net zero by 2050 and demonstrate how we will harness the power of nature to get there.

> As well as restoring and protecting peatlands and increasing tree planting, we are determined to grow towards a net zero economy. Whether it’s funding to help farmers decarbonise or support to deliver a circular economy to cut down on waste, we will support sectors to adapt.

Transport Secretary Grant Shapps said:

> We’re going further and faster than ever to tackle climate change. Together with an additional £620 million to support vehicle grants and charging infrastructure, our plans for an ambitious zero emission vehicle mandate show that we’re leading the world on the switch to EVs.
>
> We published our Transport Decarbonisation Plan in July which was just the start – as we look ahead to the COP26 climate change conference and beyond, we need to continue our efforts to deliver its ambitious commitments. This will provide certainty to drivers and industry as we create sustainable economic growth, boost job opportunities and clean up the air in our towns and cities.
>
> Not only this – by boosting our world-leading sustainable aviation fuels programme with £180 million in funding, we can accelerate the development of sustainable aviation fuel plants in the UK and create thousands of green jobs across the country.

Chief Scientific Adviser, Sir Patrick Vallance, said:

> We need a whole systems approach for reducing our carbon emissions. The Net Zero Strategy establishes what is needed to decarbonise our economy over the next 30 years. In particular, it highlights the intensive activity needed in the next decade – from early-stage research to deployment of mature technologies, through to better understanding on how to help people make greener choices.

David Wright, Chief Engineer at National Grid said:

> In the lead up to COP26, the UK has certainly raised the bar on ambition to tackle climate change – and we now need to see what this means in practice. Today’s strategy builds on the 10 point plan, the energy white paper and a number of strategies that have been published in recent months, outlining what is needed to deliver a net zero future. Now the focus needs to be on implementation and investment in infrastructure and technologies. We’re at a critical stage in the journey where net zero is possible with the technologies and opportunities we have today and, in order to deliver on this, we have to accelerate and ramp up efforts to

deploy long-term solutions at scale.

Emma Pinchbeck, Chief Executive, Energy UK said:

> The energy industry has led the way in reducing emissions in the UK – rapidly expanding our sources of clean power and investing billions every year. We will play a central role in the drive to reach Net Zero and by committing to have a decarbonised power system in place in the 2030s, our sector will also be providing the clean power needed to transform other sectors like housing and transport. The energy industry has shown what is possible with the right policies in place and is ready to invest further helping create jobs and growth across the country.

Tanya Sinclair, Director of Policy UK, Ireland and Nordics, ChargePoint said:

> ChargePoint welcomes the government's bold step towards transport decarbonisation by announcing the introduction of a ZEV mandate today, the first commitment of its type in Europe. We have seen the positive impacts on EV uptake of these schemes in North America, where they have significantly built up availability and consumer confidence of electric vehicles.
>
> Across our fast-growing charging sector, a UK ZEV mandate will create huge confidence for those operating and investing in the charging industry. This industry – consisting mainly of startups and scale ups – will for the first time be able to clearly anticipate demand for charging infrastructure and create a clear roadmap to meet these targets.
>
> With this new policy, the UK is taking an essential step on the road to 2030 as well as contributing to the creation of a better EV driver experience in the UK.

Paul Willcox, Managing Director, Vauxhall, said:

> Vauxhall welcomes the UK government's announcement to implement a zero emission vehicle mandate which will provide clarity to the UK motor industry and the rest of the electric vehicle ecosystem, on the basis of a 360-degree approach. Vauxhall believes a ZEV mandate can work in the UK provided there are complimentary targets on the other key parts of the electric vehicle ecosystem which are key to driving Britain to a more sustainable transport infrastructure. With our Ellesmere Port plant set to become the first electric vehicle only factory within the Stellantis group, we look forward to working with the government on the detail of how a ZEV mandate can be implemented and help support a sustainable vehicle

> marketplace in the UK.

Stephen Phipson, CEO of Make UK said:

> Today’s plans are a very positive step on the journey to net zero by 2050, with practical support to help businesses transition to green and clean production processes. The creation of 2 hydrogen clusters in Britain’s industrial heartlands puts our manufacturing powerhouse at the centre of innovation and will enable companies to make the switch away from fossil fuels at greater speed. It will be vital to produce enough hydrogen supply to feed not just the industrial clusters but all the manufacturers across the country.
>
> The infrastructure boost for EV cars and vans is a much needed and practical step forward and will be welcomed by industry. But defining the technology for HGVs, which are vital to manufacturing logistics, must not be forgotten. To build on this, it is important to make sure that today’s green investment plans go hand in hand with upskilling of the country’s workforces to make sure that we have the green skills to make these essential changes a reality.

Simon Roberts, Chief Executive of Sainsbury’s, said:

> This plan is a significant step forward in accelerating a green transition and will increase choice and opportunity for people and businesses of all sizes across the country. Sainsbury’s will continue to play its part in tackling the climate crisis by helping our customers and colleagues eat better, inspiring them to make simple changes that are better for them and better for the planet too. We are committed to keeping 1.5 degrees within reach and helping the UK achieve net zero by 2050, now is the time for all of us to collaborate across industry and government to protect and restore our planet for generations to come.

Clare Barclay, Chief Executive Officer, Microsoft UK, said:

> The clock is ticking. We have to turn pledges into performance and the government’s Net Zero strategy coupling investment in innovation, energy and skills is welcome. Those who have the scale and resources to create lasting change must do so, enabled by technology. The UK can lead the way to the decarbonised economies we so urgently need.

Phil Bentley, Chief Executive Officer, Mitie, said:

> The publication of the government’s Net Zero Strategy is hugely

> welcome. We've already committed to reaching net zero carbon emissions across Mitie's estate by 2025 and anything which assists more businesses in setting ambitious targets is good news.
>
> This announcement demonstrates government's commitment to delivering decarbonisation across Britain and will provide businesses with the certainty they need to invest in their own net zero strategies, while also helping accelerate the adoption of electric vehicles.

S&P-IHS Markit merger to be cleared if concerns overcome

S&P Global Inc. (S&P) is a worldwide supplier of credit ratings, commodity price assessments, analytics, financial indices, and market data. Its products are mainly used in the capital and commodity sectors. IHS Markit Ltd (IHS Markit) is a leading provider of information, analytics and solutions to business, finance and government clients.

In a highly detailed Phase 1 investigation, the Competition and Markets Authority (CMA) investigated a range of concerns across the broad range of complex financial markets in which the merging businesses are active. This investigation ultimately uncovered only limited competition concerns, for the most part because the merging businesses' activities were found to be complementary in nature or, where both are active, their combined presence was found to be relatively small.

The CMA did, however, find that the merger could lead to competition concerns in a limited number of markets in which the merging businesses' combined presence is more significant: the supply of price assessments of biofuels, coal, oil, and petrochemicals in the UK. Within each of these markets, the CMA found that S&P and IHS Markit have a significant combined presence, compete closely with one another and would face only limited competition after the merger.

Colin Raftery, CMA Senior Director said:

> After a thorough investigation of S&P and IHS Markit's business activities, we've found that the deal raises competition concerns in only a handful of markets involving the supply of certain commodity price assessments in the UK.
>
> In these markets, we're concerned that the reduction in competition could lead to worse outcomes for customers. If our concerns can be

addressed, we will clear this merger.

The deal is also being reviewed by a number of other competition authorities. While each investigation has been carried out independently, the CMA has engaged closely with other agencies to fully consider the potential impact of the merger.

S&P and IHS Markit must now submit proposals to address the CMA’s concerns within 5 working days. If they are unable to do so, the deal will be referred for an in-depth Phase 2 investigation.

For more information, visit the S&P / IHS Markit inquiry page.

1. For media enquiries, contact the CMA press office on 020 3738 6460 or press@cma.gov.uk.