co-operative party

MAKING BUSINESS WORK FOR THE COMMON GOOD

ANNUAL CONFERENCE 2020

POLICY PAPER

OWNING THE FUTURE

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INTRODUCTION

The Co-operative Party's policy is member-led, and builds on the ideas, priorities and lived experiences of our members, movement and communities.

Local parties and individual members have taken part in the consultation and contributed their ideas and priorities for making business operate in the public good. These were all read and discussed by the policy sub-committee of the NEC.

Despite the Covid-19 crisis putting a pause to our in-person activities, members have organised discussions online, and the Party centrally hosted a number of zoom events on the policy consultation topics with expert guest speakers to enable members from anywhere in the country to engage with the issues.

EXISTING POLICY

There was broad support for the Party's existing policy platform in this area, including:

- A 'Marcora Law' giving employees a statutory right to request employee ownership during business succession, alongside an early warning resource capable of informing workforces of pending insolvency or disposal of a viable business.
- A review of laws to ensure a level playing field for co-operatives
- Consumers and employees on company boards, similar to the European 'stakeholder' approach to business, with a duty to involve employees at a workplace level and higher recognition of trade unions
- A more equitable system of taxation, including better tax transparency, which enables small, regional and co-operative businesses to grow while ensuring big businesses play by the rules and contribute their fair share
- Triple bottom line reporting, enforced through an amendment to company law requiring companies to report on social and environmental impact as well as their bottom line
- Access to British courts for remedy, compensation and criminal prosecution when human rights abuses have been committed by or in collusion with UK based multinational companies
- Government investment should be made to support a voluntary expansion of employee ownership so that there are one million worker-owners by 2030
- The link between profits and wages should be re-established by legislation that ensures all businesses with more than 50 employees are obliged to set up a profit-sharing scheme with their staff.

NEW POLICY

In addition to reconfirming existing policy, members considered further policy areas and shared a range of ideas on what constitutes a responsible business, how to combat inequality and protect the environment, and how to prevent corporate bad behaviour while rewarding those businesses that go above and beyond.

Based on the submissions, here are some new ideas for inclusion in the Party's platform:

Statement One: An employee-owned recovery

To enable the post Covid-19 economic recovery, even greater priority should be put on the transition to employee ownership. The UK's post-Covid economic strategy should include a 'Right to Own' in the form of a Marcora-style rescue package for businesses at risk of closure to enable their employees to access timely information, as well as the funding and support to buyout and rebuild the business.

Briefing note:

Italy's Marcora Law was established over thirty years ago to divert the money spent on unemployment (such as benefits) into retaining jobs and continuing economic activity.

It does this by providing workers at risk of redundancy, when a business or part of a businesses is poised to shut down, with their unemployment benefits as a lump sum in advance to use as capital to buyout the business – as well as access to support and guidance to make it successful. Not only does this keep people in jobs and ensure businesses stay open and productive, it also means the economy can over time shift to a fairer, more democratic structure where employees have a say and a stake in their workplaces.

Given the likely surge and uneven distribution of unemployment rates as the UK exits lockdown, there should be a focus on anchoring jobs to the communities which need them. There needs to be emphasis on both job creation and improving job quality and security so that the economy regrows sustainably with greater resilience.

Therefore, the UK's post-Covid economic strategy should include a 'right to own' – in the form of a 'Marcora'-style rescue package for businesses at risk of closure to enable their employees to buyout and rebuild the business.

Support for a Marcora Law in the UK is already part of the Co-operative Party's policy platform, but it is crucial now to ensure it is prioritised given the recession caused by Covid-19. The UK's unemployment rate is already set to surge, with the Institute for Employment Studies already estimating that employment has fallen by 1.5 to 2 million during the first month of the crisis (on top of those furloughed under the Government scheme). Unemployment has a huge personal cost for those out of the job market, particularly during a period of downturn and recession as jobs become scarcer. The Resolution Foundation has already called the economic shutdown "bottom heavy" with the lowest socio-economic groups experiencing the hardest impact. Those already losing their jobs are the poorest in society – and are less likely to have any savings or qualifications.

A new Co-operative Development Agency should have a fund to contribute to the capitalisation of a new co-operative via share capital financing on a 1:1 ratio with workers' initial start-up or capital investment. This would not be the only source of funding – debt financing could be available from banks, the British Business Bank or Green Investment Bank, as well as utilising other new financial instruments.

The scale of the businesses and number of jobs this would rescue and democratise mean this would need to be a significant standing fund. Its success would be measured against levels of employment maintained with those in industries or businesses in crisis and as demand for Marcora funding grows, the demand for unemployment benefits should reduce in equal measure as jobs are retained and unemployment is prevented.

Local parties who proposed this (or similar) policy:

- Kettering and Wellingborough
- Co-ops & Mutuals Wales
- Southern and Eastern Society Party Council
- North Wales Branch
- Islington
- Chesterfield, Bolsover and NE Derbyshire Branch
- Southern and Eastern Society Party

Statement Two: A co-operative golden share

When taxpayer money is used to bail out or provide significant financial support to a company during our economic recovery from Covid-19, taxpayers should retain a stake. This 'golden share' in each business should be held by a democratic body elected from the company's employees, consumers and/or community. As well as giving them a stake and a say, the co-operative golden share can help lock in social purpose to the company, where the company's social mission is categorised as a golden share "class right" in the company's articles of association meaning the company board must seek consent from the holder of the golden share before proceeding with any action inconsistent with their social mission.[1]

Local parties who proposed this (or similar) policy:

- North Wales
- Chesterfield, Bolsover, and NE Derbyshire Branch

Statement Three: Better boards

The Company Directors Disqualification Act should be updated so that fit and proper person tests are required for all sectors (not just health and finance as it is currently) and strengthened so that disqualified directors cannot play any active role in new companies.

Furthermore, the Section 172 requirements on directors in the 2006 Companies Act should be strengthened so that they are enforceable, with disqualification of and financial sanctions for directors who fail to demonstrably observe this.

Briefing note:

Fit and proper person tests are legal requirements in the health and financial services sectors – in banking, this requirement was extended to cover not just the banks, as had been the case in 2016, but all finance-related firms registered with the FCA.

There are rules concerning the disqualification of unfit directors for other firms, but this hasn't been substantially updated since the Company Directors Disqualification Act 1986. This law allows the court to bar an individual from being a company, but the situations in which they can do this are fairly limited – being a director in insolvency situations, being director of a company in breach of competition law or other companies legislation, committing a fraud, being an undischarged bankrupt or being convicted of an indictable offence related with management of the company. There is also a discretionary power for the Secretary of State to apply to the court if she believes it is in the public interest.

2015's Small Business, Enterprise and Employment Act amended the CDDA, strengthening the regime so that misconduct abroad can count for consideration in the UK, as well as a broader list of factors including to an extent a director's track record.

However, a greater focus on competence, and not simply strengthening individual accountability, is key. We need to be certain that the best possible people are directors in the first place, and that the expectations for their conduct are clear, as well as having the ability to remove and bar someone after the event. In many cases, it's too late by that point – it is far too easy to set up a limited company, and once caught, poor leadership has already had its impact on the employees, the community and/or the environment.

Furthermore, while a director may be struck off over tax issues, they are not barred from owning a company if others manage it. It appears that in some cases, banned directors continue to play an active role in running new companies, and simply install a new director to sign documents and be the public face. For example, more than 50 people with links to Leicester's textiles industry, where it was uncovered that staff are paid below legal minimum wages and where a lack of safety measures have contributed to a coronavirus spike, are disqualified.[2]

Local parties who proposed this (or similar) policy:

- Brent & Harrow
- Chelmsford Star
- Chesterfield, Bolsover and NE Derbyshire Branch
- Kettering and Wellingborough

Statement Four: Combatting modern slavery

Modern slavery legislation, requiring companies above a certain size to issue a modern slavery statement, should be strengthened so that survivors receive 12 months support rather than just 45 days, and better enforcement of section 54 of the act which requires businesses to publish a statement. Furthermore, the modern slavery commissioner should be given powers to penalise companies with inadequate statements.

This builds on the work of the Co-operative party and its many co-operative councillors in tackling modern slavery in local government supply chains through the Party's Charter on Modern Slavery.

Local parties who proposed this (or similar) policy:

- North East Essex
- Bristol, North Somerset and South Gloucs

1https://www.hoganlovells.com/~/media/hogan-lovells/pdf/publication/4878744v1golden-share-report-final-formlwdlib01_pdf.pdf

2https://www.theguardian.com/uk-news/2020/sep/03/dozens-of-disqualified-directors-linked-to-leicester-textiles-trade

Statement Five: Human rights and the climate

As the EU commits to a legislative initiative on mandatory human rights and environmental due diligence, the UK should keep pace. The new EU rules will create new obligations for companies from 2021 which will include liability and enforcement mechanisms as well as access to remedy for victims of corporate abuse.

The UK should adopt a mandatory and enforceable due diligence obligation law requiring parent companies incorporated in the UK to oversee the activities of their supply chains worldwide in order to tackle the climate crisis, protect ecosystems, and protect and promote human rights.

In line with the Co-operative Party's policy platform agreed at its conference in 2017, this should be as good as or better than EU law.

Local parties who proposed this (or similar) policy:

- Islington
- Chorley West Lancashire
- North Wales
- Chelmsford Star
- Bristol, North Somerset and South Gloucs
- Chesterfield, Bolsover and NE Derbyshire Branch
- Kettering and Wellingborough
- Southern and Eastern Society Party

Statement Six: Board transparency

From the start of 2020, new reporting requirements came into effect requiring companies over 250 employees to justify their executive pay levels and account for how those top salaries relate to those of their average workers' salaries.

To ensure transparency, employee representatives should also be represented on remuneration panels. As well as supporting this, company law should be further updated to make board and workforce equalities and diversity reporting mandatory too, including an ethnicity pay gap as is being pioneered by the Co-operative Group.

Local parties who proposed this (or similar) policy:

- Co-ops and Mutuals Wales
- North Wales
- Islington
- Richmond
- Chorley West Lancashire
- Chelmsford Star
- North East Essex
- Bristol, North Somerset and South Gloucs
- Kettering and Wellingborough
- Canterbury

Statement Seven: Fair Taxes

All companies should be required to publish a binding fair tax policy that explicitly shuns tax avoidance, the artificial use of tax havens and profit-shifting. Profits, losses and tax paid on a country-by-country basis should be published. Businesses should have to be up front as to who the ultimate beneficial owners of the company are and those with significant control.

Briefing note:

Anonymously owned companies are one of the key tools used by money launderers and tax evaders to hide their illicit gains. Transparency on ownership and control allows law enforcement and tax inspectors to follow the money and make sure everyone is paying a fair share of tax.

Furthermore, too many multinational companies avoid paying their fair share by fudging where their profits were really made: across the world, some £400 billion of global corporate profits are shifted annually to tax havens. Companies must be required to demonstrate that they abide by both the spirit and the letter of the law.

Central government and all other public bodies should, in awarding contracts, have mechanisms in place to guarantee that all companies bidding for contracts are in full compliance.

Local parties who proposed this (or similar) policy:

- Islington
- North Wales
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- Chorley West Lancashire
- Chelmsford Star
- North East Essex
- Bristol, North Somerset and South Gloucs
- Kettering and Wellingborough

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