Executive Summary

For many years now the Government has been consistently ignoring the provisions of Acts of Parliament and promises given to Parliament by successive Ministers:

- Repeated promises given to Parliament that there was, under the Home Energy Conservation Act, a 30% target to improve domestic energy efficiency have not only been broken and ignored: the Government has actually denied giving those promises in the first place.

- The Act itself has virtually been repealed – not, as the law requires, by Parliament, but by the Government ignoring its provisions.

- Repeated promises by Ministers to end fuel poverty under the Warm Homes and Energy Conservation Act 2000 have now been abandoned: the duty to end fuel poverty imposed under that Act by Parliament has been repealed by an unholy alliance of DECC Ministers and High Court judges. The will of Parliament has been overridden.

- Promises given by Ministers in both Houses of Parliament to report on all the 135 commitments in the 2003 Energy White Paper have been ignored. As a result the public has no idea whether Government projections of CO₂ savings from energy efficiency are being met. By breaking Ministerial promises the Government has ensured that it cannot be held accountable.

- Legal duties to report on progress towards energy efficiency targets, and to report the effect of such actions on CO₂ emissions and fuel poverty, have been ignored. As a result it is impossible to see whether the legal target has been met and to hold the Government to account regarding it legal duties.

March 2010

A joint publication by:
**Home Energy Conservation Act 1995**

This Act was passed under the previous Conservative Government. The (then) Energy Efficiency Minister assured Parliament that the aim was to increase the energy efficiency of domestic premises by 30% by 2010, as the following exchange in Parliament makes clear:

> **Mrs Maddock** *(the promoter of the Bill):* The Minister has suggested that he will leave the target of 30%... I would like reassurance on that.

> **Mr Jones** *(the Minister):* I am happy to give that assurance.\(^1\)

The Minister (Robert Jones MP) also made this clear on the floor of the House itself: ‘at first we want to set a target of 30% for every local authority’.\(^2\)

This target was specifically adopted by the Labour Government: On 13\(^{th}\) April 1999 Secretary of State for the Environment John Prescott in a statutory Report to Parliament, pursuant to the Act, said that ‘a 30% improvement target (i.e. of domestic energy efficiency by 2010 based on 1996 levels) was deliberately set as being a demanding one.’\(^3\)

‘Monitoring HECA’ - a DETR report of 1999 - restates the 30% target no fewer than 23 times.\(^4\)

In 2001 the DEFRA web site restates the 30% target.\(^5\)

**Lost in Translation**

10\(^{th}\) May 2002: Environment Minister Michael Meacher refuses to confirm this target during the Report Stage of Des Turner’s Home Energy Conservation Bill\(^6\)

23\(^{rd}\) May 2002: Michael Meacher told the Trade and Industry Committee ‘there has never been a Government commitment to a 30% target.’\(^7\) The whole exchange is illuminating:

> **Mr Djanogly:** I should like to ask a few questions concerning Government targets. I should like to start with a letter of 13 May which is on public record from Ron Bailey, the Partnership Organiser of the HECA Partnership, to Jonathan Sayeed.

> **Mr Meacher:** I think Mr Djanogly is coming onto an issue which is specific to me and I should be very pleased to deal with it. I am probably past the point when I ought to leave so could I ask for any questions to be directed at me to be delivered now so that I can be released reasonably quickly.

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\(^1\) Hansard of Standing Committee C 15.2.95 col 60
\(^2\) Hansard 17.3.95 col 1197
\(^3\) Produced pursuant to section 3(4)(a) Home Energy Conservation Act 1995
\(^4\) Monitoring the Implementation of the Home Energy Conservation Act, DEFRA September 1999
\(^5\) We have a printout of the relevant page
\(^6\) Hansard 10.5.2002
\(^7\) Minutes of Trade and Industry Select Committee 23.5.02
Mr Djanogly: Effectively they are maintaining their belief that the 30 per cent target, which was recently debated, is correct and they make the point that in Opposition Labour supported this seven times. Could you just explain why the Labour Party is no longer supporting this?

Mr Meacher: There has been more misinformation and black propaganda on this issue than any recent issue I can think of. Almost everything which has been put out is actually the opposite of the truth. Point one: **there has never been a Government commitment, either by the previous Government before 1997 or by our Government since, to a 30 per cent target.** (Our emphasis in bold – ACE and Unlock Democracy)

So there it is: there has never been a target (set by either the previous Conservative Government or the current Labour one) and those who assert that there was are guilty of ‘black propaganda’. This is distortion of truly Orwellian proportions. What is sad is that this was perpetrated by a very committed Minister. Even with the most committed and decent of people (as Mr Meacher is), somehow the truth gets ‘Lost in Translation’.

### Lost in Translation (2) How to repeal an Act without the approval of Parliament

HECA, like all laws, was passed by our ‘sovereign Parliament’. Parliament makes the laws and only Parliament can repeal the laws. Those who are subject to them must abide by them – well, unless that person is the Government, that is!

We document below how the Government has systematically ignored certain laws: here we document how the Government has, in effect, repealed HECA.

Under HECA, as we noted above, the Government ‘shall from time to time prepare a report on progress made\(^8\) and shall lay any such report before Parliament.\(^9\)’ The first such report was laid in 1999, as we have noted. Since then no other report has been laid. Now, although ‘from time to time’ is not defined in the Act, it clearly does not mean ‘never’ - nor, reasonably speaking, ten years since the last report was laid. What has happened is that this provision has been ignored.

Perhaps even more fundamentally, the duty on local authorities to submit to the Government ‘energy conservation reports’\(^10\) has also been minimised. For the past three years the Government may have gathered the reports – but we simply do not know because no summary of the reports has been published by the Government.

The Act has, in effect, been repealed: not by Parliament but by the Government ignoring it.

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\(^8\) i.e. towards the target set in Parliament  
\(^9\) Section 4(3)(a)  
\(^10\) Section 2(2) and (6)
**Warm Homes and Energy Conservation Act 2000 – No 1**

This Act was introduced as a Ballot Bill by Conservative MP David Amess.

Prior to the Act the definition of fuel poverty had always been where a household needs to spend more than 10% of disposable income (i.e. after housing costs e.g. rent) to keep warm, as admitted by the Government in its Draft Fuel Poverty Strategy published in February 2001. For instance Annex D para 10 said quite explicitly that “excluding housing costs met by housing benefit or income support for mortgage interest… is the definition that has been used in the past.”

However, the draft Strategy in February 2001, which became the Fuel Poverty Strategy in October of that year, defined fuel poverty as the spending of 10% of total income and in so doing, the Government defined 1 million people out of fuel poverty.

However, the Government assured concerned critics that this was not the case because:

- As the Environment Minister told Don Foster MP in a letter dated 13th March 2001 ‘not only will we publish the numbers of fuel poor against both definitions, but that we will achieve our target against both’ (both underlinings in original); and

- As Mr Meacher assured the NEA Annual Conference in his speech on 11th September 2001: ‘we will publish the numbers of fuel poor on both definitions … and meet our target on that broader definition’ (underlings in original handout notes of his speech provided by Mr Meacher).

- And as Mr Meacher assured Parliament, via its Trade and Industry Select Committee on 13th May 2002:

  - **Roger Berry**: You said meeting the fuel poverty target by either definition.
  - **Mr Meacher**: Yes.
  - **Roger Berry**: Did you mean one or the other, or did you mean both?
  - **Mr Meacher**: I meant both. ¹²

**Lost in Translation**

By the time of the publication of the 7th Annual Progress Report on Fuel Poverty¹³ the Government had abandoned its reporting on both definitions as pledged and any attempts to end fuel poverty on both definitions were also abandoned.

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¹¹ See also Annex D page 13 and para 9 for similar statements
¹² Minutes of Trade and Industry Select Committee 13.5.02
¹³ Compare Chart 3 in the 1999 Report (page 7) with the equivalent Chart on page 6 of the 1998 Report
Warm Homes and Energy Conservation Act 2000 – No 2
When the Warm Homes Act was passed in 2000, the clear intention of Parliament then and in the years up to 2000 was to pass an Act to give the Government a duty to end fuel poverty. For instance:

- In the Session 1999-2000, 390 MPs (a massive majority) signed EDM No. 317 supporting the Warm Homes Bill’s ‘aim of ending fuel poverty in the United Kingdom’.
- Similar EDMs were signed by a majority of the House in the previous two sessions.\(^{14}\)
- A vote in the House of Commons in support of the Bill with that aim was supported by 22 current Ministers.\(^{15}\)

And what is more, the Government itself believed that this was the will of Parliament – and spoke accordingly. For instance:

- The belief that the eradication of fuel poverty was the legal duty was made clear in February 2001 when the Minister Lord Whitty wrote (in the draft Fuel Poverty Strategy) that fuel poverty “is unacceptable and we commit ourselves by 2010 to end the blight of fuel poverty for vulnerable households.”
- And this was confirmed in the 2003 Energy White Paper, laid before Parliament as Cmd No 5761, when the Prime Minister Tony Blair wrote: “We renew our commitment that no household in Britain should be living in fuel poverty by 2016-18.” (the difference in end dates reflects the implementation dates of the devolved administrations)
- Numerous successive Ministers made similar statements.\(^{16}\)

And, indeed, this was confirmed at Labour Party Conference and in two Labour Party Election Manifestos:

- Deputy Prime Minister John Prescott committed his Party to ending fuel poverty on 25 September 2001, telling his Party Conference: “We’ve set a new goal to wipe out fuel poverty by the year 2010, because we in the Labour Party do not believe elderly people should die, just because they can’t afford to keep warm. That’s Labour social justice in action.”
- This ‘social justice’ was repeated in the Party’s Election Manifesto of 2001 (p. 71): “Our goal is to eliminate fuel poverty for vulnerable groups by 2010, and for all by 2015”; it was repeated in the 2005 Manifesto (p. 13): “Fuel poverty blights lives: our aim is that by 2010 no vulnerable household in the UK need risk ill-health due to a cold home.”

\(^{14}\)In the Session 1997-8, 325 MPs signed EDM No. 80 supporting the Warm Homes Bill and noting that it called for a strategy that was ‘designed to end fuel poverty in the United Kingdom’and in the Session 1998-9, 351 MPs signed EDM No. 108 supporting the Warm Homes Bill to set up a programme ‘to end fuel poverty in the United Kingdom’.

\(^{15}\)CABINET MINISTERS Hilary Benn, Harriet Harman, Jim Murphy. OTHER MINISTERS Ben Bradshaw, Alan Campbell, Paul Clark, Jim Fitzpatrick, Barbara Follett, Tessa Jowell, Ann Keen, Stephen McCabe, Gillian Merron, Mike O’Brien, Ian Pearson, Bridget Prentice, Bill Rammell, Joan Ruddock, Jonathan Shaw, Gareth Thomas, Claire Ward, Rosie Winterton, Phil Woolas

\(^{16}\)For example, to name but some of many: Margaret Beckett, DEFRA Press Release 482/04 November 2004; Lord Whitty, Fuel Poverty: the Government’s Plan for Action, 2004 and in 2nd Fuel Poverty Annual Report, 2004; Michael Meacher, DETR Press Release 23.2.01, and at NEA Conference 11.9.01, and in Fuel Poverty Strategy 2001, and in Memorandum to Select Committee 23.5.02; and Phil Woolas, Warm Homes Group Annual Dinner 27.11.07
Lost in Translation

In all of this there was not a hint of ambiguity - no mention of only ending fuel poverty “as far as is practicable”. Ending fuel poverty was a legal duty enacted by Parliament. It was a commitment, a target, and was “Labour’s social justice in action”. This was until the going got too tough in 2008 when the Government argued (successfully) in the High Court and Court of Appeal that the words in the 2000 Act “as far as is reasonably practicable” meant that there was no duty to end fuel poverty.

The Government was, as we now know, successful: legal loopholes and judges thus overruled assurances by Ministers (both inside and outside Parliament), Election Manifestos and the will of Parliament.

The Sustainable Energy Act 2003 – Reporting Requirements

This Act gave the Government reporting duties regarding sustainable energy and climate change. In the Committee Stage MPs stressed the importance of full reporting and there were moves by MPs to make this a statutory requirement. However, in order to forestall this, the then Minister Brian Wilson assured the Committee that

“As part of the overall reporting process, we shall report on the 135 specific commitments in the White Paper” (Brian Wilson, Standing Committee C 11th June 2003 Column 7)

This assurance was then repeated in the House of Lords:

“We will report on the progress towards achieving all 135 targets” (Government Minister Lord Evans of Temple Guiting in the Lords Second Reading debate 12th September 2003 Hansard Column 620)

As a result attempts by MPs to widen the statutory reporting duties were abandoned: a clear Ministerial commitment to Parliament was viewed as quite sufficient.

There were a number of important commitments relating to energy efficiency, forming part of the total of 135 commitments in the 2003 Energy White Paper. Among them was the aim to deliver 5MtC savings by domestic energy efficiency by 2010 and a further 4-6 MtC annually by 2020; and to deliver 6MtC savings as a result on energy efficiency in the business and public sector by 2010 and a further 4-6MtC savings by 2020.17 These were listed as commitments EE 6 and EE 7 on the Government’s Sustainable Energy Policy Network website18.

The Ministerial assurances referred to above would thus allow people to see how the Government is doing – and hold it to account on the crucially important policy of reducing carbon emissions.

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17 2003 Energy White Paper page 33
18 We have a printout of the relevant pages
**Lost in Translation**

We spent months last year and earlier this year trying to track down the reports that Parliament was assured would be provided. Eventually we were sent a document by the Department of Energy and Climate Change (DECC) that, we were told, ‘does contain a report on all 135 Energy White Paper commitments’. 19

It did not: in fact it contained ‘reports’ on less than 50% of them. Crucially it contained no information regarding the CO₂ savings required by

- Commitment EE7 – the commitments relating to CO₂ saving in the business and public sector; and
- Commitment EE6 - the commitments relating to CO₂ saving in the domestic sector.

So how is the Government doing? We do not know: the commitment to tell us has been ‘Lost in Translation.’

**Breaking the law: Housing Act 2004/Climate Change and Sustainable Energy Act 2006**

Section 217(1) of the 2004 Act gave the Government a duty to ensure that domestic energy efficiency by 2010 was 20% higher than in 2000. Section 12 of the Climate Change and Sustainable Energy Act 2006 gave the Government a duty, commencing in January 2007, to report on

i. progress towards achieving the target set out in section 217(1) of the Housing Act 2004, i.e. to improve household energy efficiency by 20% by 2010 from a 2000 baseline;

ii. the extent that actions to achieve the above target have affected (a) emissions of carbon dioxide in England, and (b) the number of households in which one or more persons are living in fuel poverty;

in a specified reporting period, which was set as the year ending 23rd February of the calendar year in question.

Thus the 2007 report had to include the information on progress from 24th February 2006 – 23rd February 2007 and the 2008 Report had to include the information on progress from 24th February 2007 – 23rd February 2008.

**Lost in Translation**

We looked at the Reports for 2006/7 and 2007/8: the required information is missing.

We queried this with DECC and on 9th October 2009 were told that ‘elements of the reporting do not appear to have been published ... specifically the reports do not “appear to contain” the information relating to (i) and (ii)(a)’ above20 - i.e. the information relating to the 20% target and CO₂ emissions.

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19 Email from DECC 9th October 2008.
20 Letter from DECC 9.10.09
The same letter stated that the Government ‘would like to assure you that we are seeking to rectify this matter and we intend to take steps to publish reports for these periods as soon as possible’\textsuperscript{21}.

That was October: since that time the Government has known of this breach of the law, but the reports still have not been published, despite DECC’s ‘assurance’. Just as with the Ministerial promises documented above, that too has been ‘Lost in Translation’.

As regards the information relating to fuel poverty, the letter from DECC ‘confirmed’ that this had been published – in the Fuel Poverty Annual Reports and the UK Sector Indicators reports. We looked at these reports. That information has not been published, despite DECC’s confirmation that it had.

\textbf{Breaking the law: Energy Act 2006}

This Act altered the ‘reporting period’ (but not the duty to report) for the three matters explained above – i.e. the 20\% domestic energy efficiency target and its effect on fuel poverty and emissions of CO\textsubscript{2}. The change meant that the 2009 Report would have to contain the information for the year ending 31st December 2008. As the letter from DECC explained:\textsuperscript{22}

‘We will publish the Sustainable Energy Report for the 2008 period shortly. This will report progress on the household energy efficiency target and related carbon savings for the calendar years 2007 and 2008.’

\textbf{Lost in Translation}

That Report was published in November 2009. It does NOT contain the information required by law.

\textbf{Why this matters}

It may be argued that much of the above is only about ‘reporting’ and so what if the Government has not done it properly. This argument is fundamentally flawed for a number of reasons.

1. As regards Ministerial assurances, is it really being suggested that what Ministers say to Parliament and assure Parliament can just be ignored? That undermines Parliament itself.

2. What is more, often these assurances are given to stop MPs from pressing a point, as they are willing to accept the words of the Minister as an ‘honourable person’. Thus, MPs are deflected from legislating on issues that they believe to be important by assurances that are given, but \textit{not kept}.  

\textsuperscript{21} ibid
\textsuperscript{22} Letter dated 11.11.09
3. These are perhaps ‘constitutional issues’ about transparency and honesty of politics and the ‘body politic’. But there are also important policy issues as well. For instance:

- As regards the Home Energy Conservation Act – how much extra CO₂ has been emitted because of the reneging on the categorical assurances given by Ministers regarding the 30% target for local authorities?

- As regards the Warm Homes Act, how many millions of people have been forced to suffer what Ministers have called the scourge of fuel poverty because of the reneging on the promises given as regards that Act?

- As regards the reporting commitments and duties under the Sustainable Energy Act 2003, the Housing Act 2004, the Climate Change and Sustainable Energy Act 2006 and the Energy Act 2008 – these concern energy efficiency and CO₂ reduction. The Government trumpets its commitment to both of these policy objectives: but how can the public hold it to account if assurances and the law are consistently broken.

4. But perhaps the most serious effect of all is that of the public’s view of politics, politicians and of democracy itself. Hundreds of thousands of people campaigned for these changes: they won. They secured these changes: then they see that their efforts mean little. They see politicians ignore them. Can we really blame people for disengaging from politics; for not bothering; for withdrawing from the whole corrupt system? Politicians bemoan apathy: THEY have certainly exacerbated it either by their actions described above, or by their inability or unwillingness to do anything about what we have described above.