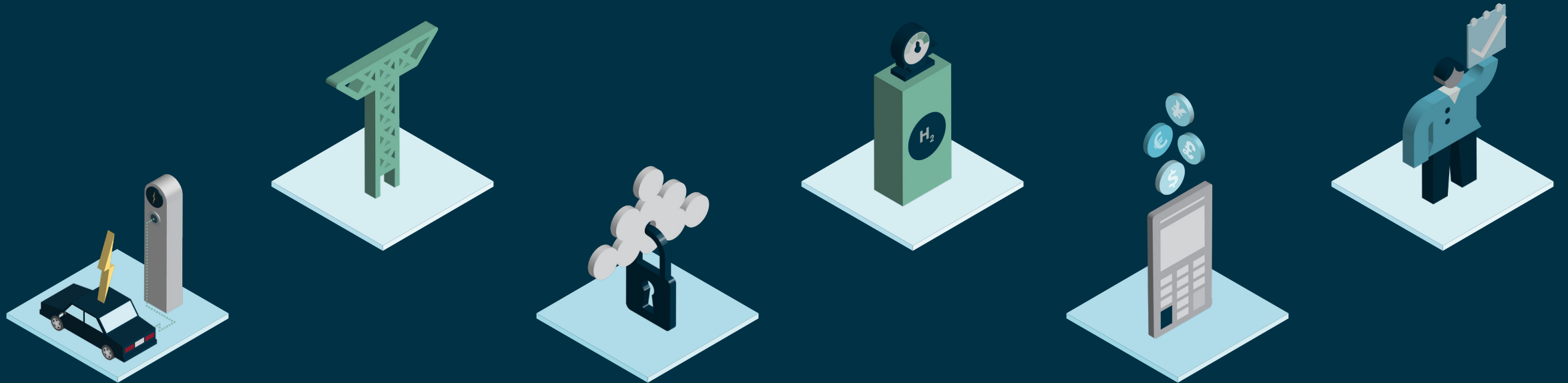


TRANSFORMATION



Greening your fleet

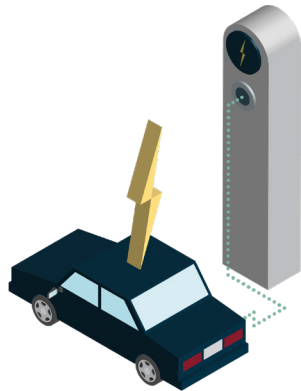
Decarbonising your fleet as a transformation project



Vehicle leasing and finance

Lease and availability-based solutions

Electric vehicle fleets can be procured on a traditional, lease financed basis or through more innovative availability-based products. Providers are offering products that wrap the costs of ownership, insurance, road tax and maintenance, with an option to use a network of chargepoints and receive a single bill at the end of the month.



- Lease finance solutions contain a mixture of risks, some of which will be borne wholly by lessee or lessor and some of which are shared. Customers need to understand which types of risks each party can be expected to bear and where better positions can be negotiated.
- Availability-based products may have a “floor” below which payments cannot fall and will be part of the assessment of suitability and affordability for individual corporates and infrastructure finance providers. Customers will need to consider what obligations the documentation imposes in terms of minimum payments, length of term of the agreement and ability to flex the level of service required over the life of the contract.
- Whether a lease financed or availability-based solution is preferred the contract terms for the vehicles will include return conditions which may expose the customer to risk. Businesses need to understand these risks and ensure they can be managed effectively during the life of the contracts.
- Leasing arrangements typically include provisions requiring a bullet payment from the lessee on early termination. The amount and conditions for payment of this termination sum varies between providers and will need consideration as part of establishing the overall risk in the transaction for the lessee.

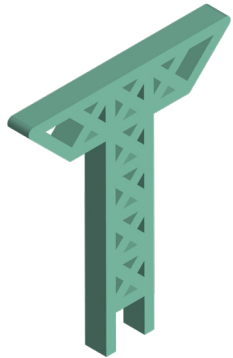
Recent experience includes advising:

- A large corporate client on the terms and conditions for the leasing of vehicles for employees across the UK, France and Spain from a major lease finance provider.
- On the terms of a complex availability-based agreement and associated leasing arrangements for the provision of construction vehicles to a government body.
- On the terms of complex manufacture, supply and leasing of cars, refuse vehicles, buses and other asset classes.
- We act regularly on lease finance transactions for electric fleets, reviewing providers’ terms as well as advising on more complex structures to make vehicles available to users. We advise on standalone solutions as well as where access to vehicles is provided as part of a multi-modal mobility offering.

Infrastructure and connection upgrades

Connection works

The installation of electric vehicles (EV) infrastructure can require more than just the installation of charge points. Upgrades to depots, existing infrastructure and to the relevant grid connections may be required to realise the benefits.



- Chargepoint providers are rolling out facilities across different locations and may offer to install and operate EV chargepoint facilities as part of the commercial proposition. How this is structured will depend on the customer and associated location type. For example, local authorities with their own real estate and private finance initiative arrangements in place will use different structures compared to retail customers whose property arrangements are subject to leases.
- Chargepoint providers may operate through exclusive or non-exclusive arrangements. Cost, complexity and the potential for limiting contracting options with potential future providers will be relevant considerations for customers. Corporate customers will need to understand any requirement for increasing the number of chargepoints or upgrading capacity over time, as well as whether to grant a lease or a licence to providers.
- If a third-party provider is funding a fleet upgrade, customers may want to consider whether infrastructure capex should/could also be funded and amortised as part of a lease financing solution. The contractual provisions to define and manage the roles and responsibilities of funders, developers and infrastructure managers will need close attention as they are negotiated.

Recent experience includes advising:

- Delhaize on the roll out of electric charging stations in their stores and offices in Belgium.
- On the installation and operation of a network of rapid chargepoints to be operated on a concession basis.
- The energy installation division of an investment management business on a flagship transmission and connected battery project including a public passenger EV hub and capacity sharing.
- On the drafting of model contracts for a manufacturer and operator of charge points.
- Owners and occupiers of retail, commercial and other real estate in contract negotiations with charge point operators.

Technology and innovation

Technology and innovation

New technological solutions are the enablers of change in corporate fleets. In addition to the development of electric and alternative fuel vehicles, shore-side battery storage, artificial intelligence (AI) and data analytics bring the potential for fundamental change.



- Co-locating battery storage alongside charging infrastructure has the potential to reduce both lead times and the requirements for extensive grid upgrades, especially for rapid chargers. Longer-term vehicle-to-grid, or V2G, technology brings the possibility of using on-vehicle batteries as a form of mobile storage, drawing then returning power to the grid at times of scarcity.
- Access to real-time data, such as GPS location, job information, vehicle and device performance, traffic data, driver data and route forecasting can enable fleet managers to increase route optimisation and reduce energy consumption. AI-integrated software can be applied to predictive repair and maintenance, saving time and resource and making it possible to reduce vehicle downtime. Virtual and augmented reality devices are making maintenance, fault identification and repair simpler and more cost effective.
- With data being collected at charge points accessed via SMS messages, card payments, apps or subscriptions, on charging apps, and via connected cars, the flows of data are complex and involve numerous stakeholders. The data collected on employees leasing electric vehicles or utilising a company's fleet includes location data, charging information and payment details, potentially all of which will constitute personal data.

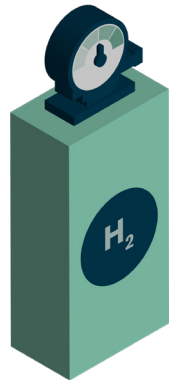
Recent experience includes advising:

- Starship, a self-driving robot delivery service focusing on communities and neighbourhoods, on a range of legal issues.
- ZF, a driveline and chassis manufacturer, on a series of international data protection projects, including advising on the implementation of WiFi networks for guests at all their production facilities worldwide.
- The sellers of FleetEurope, a leading provider of bespoke fleet management, vehicle leasing and vehicle rental services, on its acquisition by Fleetondemand, one of Europe's most prominent developers of multi-platform mobility-as-a-service solutions in the corporate automotive industry.

Alternative fuels

Overview

Alternative fuels – including compressed natural gas (CNG), liquefied natural gas and hydrogen – are potential options where plug-in electrification is not viable. Alternative fuels are likely to be the most realistic option for heavy freight users in the short to medium term.



- Gas, hydrogen and other alternative fuels offer faster re-fuelling times, greater energy concentration and longer travel distances compared to plug-in electric vehicles. This more naturally “replicates” the current petrol and diesel expectations of users and can provide a solution where the payload and limited range of batteries makes electrification challenging. Hydrogen projects may be co-located with end-users and renewable generators.
- Developers of alternative fuel projects for freight users need to consider the fuel supply chain to ensure source and security of supply and eligibility for renewable benefits, refuelling infrastructure volume, location and deliverability, and predictability of customer revenues.
- Alternative fuel projects remain relatively few in number and are often “first in class”, hence the business and economic case for projects may require an innovative approach and clear demonstration to a potential investor. Investors, providers and customers may be able to leverage government support to assist in building the business case for a project.
- Alternative fuel projects may benefit from the Renewable Transport Fuel Obligation and qualify for Renewable Transport Fuel Certificates, potentially providing an additional revenue stream within the financing structure of qualifying renewable fuel generation projects.

Recent experience includes advising:

- Infrastructure and private equity investment manager Foresight on an £80 million investment by two of its funds into a portfolio of biomethane CNG refuelling stations for HGVs, which will enable fleets to switch from diesel to carbon-neutral fuel.
- A specialist hydrogen provider on a project to supply bus fleets with green hydrogen from renewable powered electrolysis.
- Eversholt, a rolling stock leasing company, on Project Breeze, their proposal to convert an existing fleet of passenger trains to hydrogen.
- An infrastructure fund on its proposed investments in early-stage compressed air and green hydrogen project in the Netherlands and Denmark.

Employment and incentives

Salary and sacrifice schemes, changes to employment terms and tax implications for corporates

The introduction of electric vehicle (EV) fleets will necessitate creative thinking around how to embed these as key and attractive parts of employee propositions, which are critical to the engagement and retention of talent. High on the “to do” list will usually be the introduction of an EV salary sacrifice scheme, changes to terms and conditions of employment and a different approach to business expenses. Tax implications will also need to be taken into consideration before making the switch from diesel to electric.



- EV salary sacrifice schemes are, increasingly, an attractive proposition for employers and employees: they subsidise costs, make National Insurance business savings, and are easy to run and manage. However, for lower paid workers, there can be unintended National Minimum Wage issues. The “giving up” of part of a salary in return for the benefit must also have contractual effect or risk being an ineffective scheme resulting in PAYE (pay as you earn) issues.
- A switch to EV car fleets may necessitate a change to employee's terms and conditions of employment. This could include new benefits such as electric “universal credit” to use across the UK's charging network and new obligations in respect of EV lease cars. Individual or collective consultation will be needed from both a legal and employee relations perspective.
- A fresh look at business expenses will be necessary. Who pays for the charger, for installation costs and for the energy? How is this recorded and claimed?
- EV's may continue to be taxed far more favourably than their petrol or diesel counterparts. It will be critical for businesses to be fully aware of the corporate tax implications and changes in the tax regime, as well as the potential for charging drivers directly to use roads in the future.

Recent experience includes advising:

- Diageo on transitioning its people to EVs in response to changes to the tax treatment of company cars and ensuring the process aligned with terms of employment.
- Mobility platform Bolt on its recent expansion into Belgium, assisting with corporate structuring, employment and tax matters, helping Bolt harness technology to reduce its carbon footprint and positively affect the urban environment.
- A large corporate contracting with a major EV leasing provider, reviewing the terms of the salary sacrifice documentation.

Emissions reporting and ESG

GHG Protocol and other reporting frameworks

Businesses are required to report publicly on their Scope 1 emissions under a network of voluntary and mandatory frameworks.

The international GreenHouse Gas (GHG) Protocol is the internationally-recognised standard setter for businesses and governments measuring and managing climate-warming emissions. It categorises emissions into scope 1, 2 and 3. Scope 1 covers all direct GHG emissions from sources that are owned or controlled by the reporting entity.



Scope 1 includes emissions from a company's fleet vehicles. In addition, businesses may be subject to reporting regimes such as:

- The EU's Disclosure of Non-Financial Information Directive.
- The UK Streamlined Energy and Carbon Reporting regulations.
- The global recommendations of the Taskforce on Climate-related Financial Disclosures.
- The global Carbon Disclosure Project.

Making its own fleet more sustainable can have a direct and immediate impact on a company's reported carbon emissions and demonstrate commitment to its environmental, social and governance (ESG) credentials, for example, under the GHG Protocol Scope 3 emissions covers all indirect emissions from a business' value chain. A business that uses a fleet is, therefore, within the scope 3 of its customers. Those customers are likely to themselves be setting decarbonisation targets (for example under the Science Based Targets Initiative). In order to achieve those targets they will be required to reduce their scope 3 emissions.

Recent experience includes advising:

- Board-level and senior management of major listed property development company on sustainability disclosure requirements and on how policy and legislative developments are likely to influence their decarbonisation strategy.
- A large consumer goods multinational business on ESG compliance service across multiple jurisdictions.
- A major international cosmetics business on ESG-related advertising claims.
- A listed British e-commerce retailer on carbon offsetting agreements.

Transformation

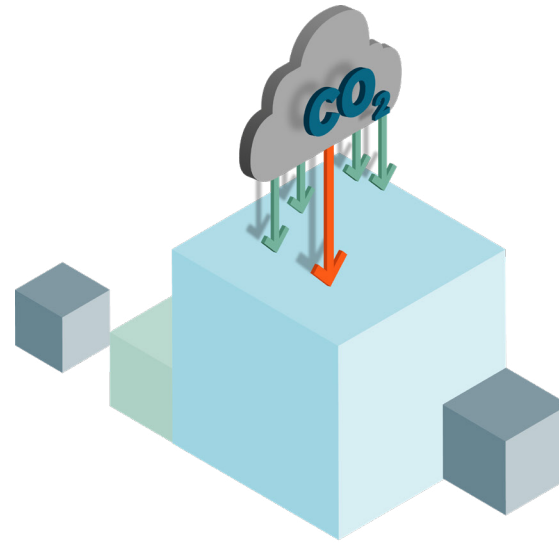
We immerse ourselves in the global issues that are transforming the landscape of how we live, work and do business. Focusing on the transformation drivers that will have the biggest impact on our clients, we use this insight to help you thrive, ensure agility and strengthen the resilience of your business. We are at your side, working closely with you to bring value, share new products and apply digital solutions. Together we'll be ready for what's next.

osborneclarke.com/transformation

We were commended in the FT Innovative Lawyers Europe 2020 awards.

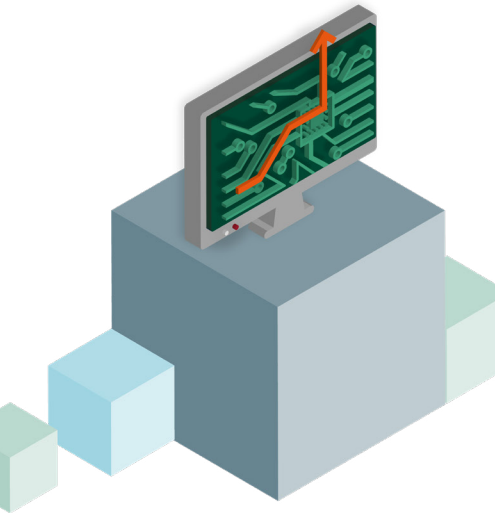
Decarbonisation

Carbon-neutral imperatives are increasingly at the heart of business strategies. This will often require a radical rethink along your entire supply chain, from initial use of carbon all the way through to customer delivery. We will bring our expertise and track record to support you with every step along your decarbonisation journey.



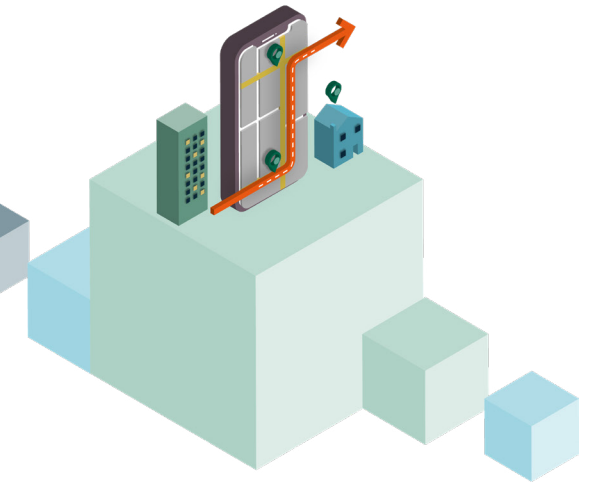
Digitalisation

Businesses are fast being reshaped to fully exploit the possibilities of digital technology, but timely delivery is vital. Our lawyers are experts in advising on delivering a digitalisation strategy: from procuring digital infrastructure and technology to implementing a data strategy, or responding to a cybersecurity crisis. We support you as you expand or transform your business through technology.



Urban Dynamics

The vast majority of businesses operate in and benefit from the urban environment. The extent to which you understand and engage with urban dynamics will have a significant impact on your continued success. We understand that the way in which cities are designed, built and managed offers extraordinary opportunities. Our legal advice is focused on helping you to realise these opportunities.



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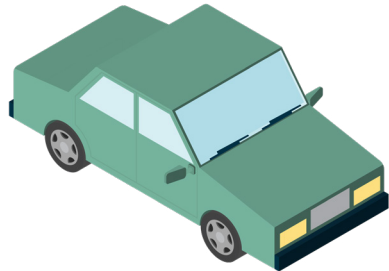
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