

# Measuring 'Advised Emissions'

A Framework for Assessing  
the Carbon Footprint of  
a Law Firm's Advice

Whitepaper L1  
September 2023  
Matthew Gingell







## Abstract:

It is relatively straight forward for a Law firm to be operationally Net Zero. But by the very nature of things a Law firm cannot be sustainable, when advising unsustainable clients in an unsustainable world.

This whitepaper proposes an innovative approach to measure the Advised Emissions of law firms, specifically focusing on quantifying the carbon footprint associated with the advice they provide to clients. With the growing awareness of climate change and the urgent need to mitigate greenhouse gas emissions, it is crucial to consider the environmental impact of various industries, including the legal sector. By developing a comprehensive framework for measuring Advised Emissions, law firms can better understand and minimise their carbon footprint while contributing to sustainable practices and creating co benefits for clients and the planet. This whitepaper presents a potential methodology for assessing Advised Emissions at a client level but also identifies the requirement for:

1. The creation of a **Transition Factor Database** for every Client sector and sub-industry that the legal profession advises;
2. An industry standard **Matter Attribution Tool** that accurately measures the lifetime carbon effect of legal advice at a matter (transaction) level; and
3. A **Global Advised Emissions Summit** to advance understanding and collaboration on key principles and concepts.

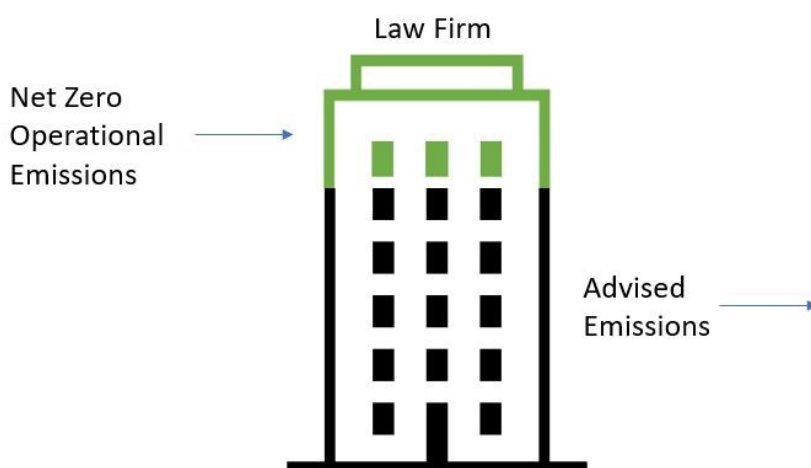
## Acknowledgements:

The creativity and collaboration of the legal profession never fails to amaze me, despite external headwinds. Special thanks for their collaboration and sharing of knowledge on this emerging subject go to:

- Ellie Mulholland, CCIL and Minter Ellison LLP for always being the first to think about these things.
  - David Hunter, Bates Wells LLP, for his thought leadership on all climate law matters.
  - Amanda Carpenter, Achill Management for always staying the course and connecting dots in climate law.
  - The Charter 1.5 working group on Advised Emissions, for having the ambition and leadership to commit to a better profession.
  - Diane Harris, MDY Legal, for running with ideas and always being the early adopter for a better tomorrow.
  - Professor Tracy Hester, University of Houston Law Centre, for his support and insight from across the Atlantic
  - Jack Oliver (and team) and Tiago De Melo Cartaxo, Exeter University for their support, insight and encouragement.
  - Burges Salmon LLP, for indulging a GC's hopes and dreams.
  - Jovontae Catline and Claire Jost, Good Business for keeping me grounded.
  - The wider team at Oxygen House including George Pawley, John Fuller, Harriet Connolly and Amy Whight.
-

# Introduction

The legal profession plays a vital role in advising individuals, corporations, and governments on a wide range of issues. As an office-based service industry, most firms will have low operational emissions. However, little attention has been given to the environmental impact of the advice provided by law firms. In fact, it is completely unknown. This whitepaper aims to address this gap by proposing an approach to measure the Advised Emissions of law firms, enabling them to evaluate and mitigate their carbon footprint, whilst also capitalising on the co-benefits and opportunity presented for their businesses.



Dig1. The delta between operational emissions and downstream Advised Emissions of a law firm is completely unknown. Adopting an Advised Emissions methodology will bridge this gap.

The paper recognises that methodologies like this are imperfect, but that we must start somewhere. This paper is not designed to be holistic or solve all the problems, it is designed to be a tool for action, to inspire further conversation and collaboration. It will be naïve to some and antagonistic to others. It is not advice.



# State of Play

A legal white paper must start with a definition. In this paper, “Advised Emissions” refers to the indirect greenhouse gas emissions resulting from the advice and services provided by law firms to their clients. These emissions are not explicitly included in the GHG Scope 3 protocol<sup>1</sup> as downstream emissions relate to products not services, like advertised emissions. Although Advised Emissions could be seen as duplicating existing Scope 3 emissions, this paper will show the benefits of measuring and taking responsibility for them outweigh this concern.

Some terms used to describe Advised Emissions include Scope 4, Scope X/C emissions, or the Handprint of consultants and advisors, distinguishing it from a footprint.

In June 2023, the Law Society of England and Wales issued guidance on climate change<sup>2</sup>, which also recommends addressing Advised Emissions. Furthermore, this paper acknowledges the commendable efforts of firms that have signed Charter 1.5<sup>3</sup>, as they are taking the lead by fully adopting this guidance and actively engaging in discussions on an Advised Emissions methodology.

## The Benefits of Measuring Advised Emissions

By adopting a proactive approach towards measurement of Advised Emissions, law firms can unlock numerous advantages that go beyond compliance and provide co-benefits for their firms, clients, and the wider world.

This paper highlights eight key areas where measuring Advised Emissions can bring substantial benefits and a significant quantifiable return on investment.

- 1. Recruitment and Retention of Talent:** In an increasingly competitive job market, law firms that demonstrate a commitment to sustainability and climate action are more likely to attract top talent. By measuring Advised Emissions and implementing sustainable practices, firms send a powerful message to prospective employees, showcasing their dedication to environmental responsibility. Such firms can position themselves as employers of choice, attracting the next generation of environmentally conscious professionals who align with their values.
- 2. Business Development:** The measurement of Advised Emissions provides law firms with a unique opportunity for business development. As clients increasingly prioritise sustainability, firms that can demonstrate their expertise in environmental matters and offer tailored legal solutions gain a competitive edge. By showcasing a comprehensive understanding of Advised Emissions and their associated legal implications, firms can expand their client base and strengthen existing relationships.

---

<sup>1</sup> Homepage | GHG Protocol

<sup>2</sup> Impact of climate change on solicitors | The Law Society

<sup>3</sup> HOME - Legal Charter 1.5 | Official Site ([legalcharter1point5.com](https://legalcharter1point5.com))

3. **Client Insight and Added Value:** By measuring Advised Emissions, law firms gain valuable insights into their clients' sustainability performance and carbon management strategies. This knowledge enables firms to provide tailored advice and support, helping clients enhance their environmental performance and reduce potential legal risks. Furthermore, by offering additional services related to Advised Emissions measurement and management, law firms can provide added value to their clients, fostering long-term partnerships.
4. **Legal Innovation:** Data provides unseen insights. Measuring Advised Emissions opens the door to legal innovation. From new fee structures, comp set benchmarking, transition plan progress, to greenwashing risk analysis. By incorporating environmental impact into fee structures, law firms can align their economic incentives with their sustainability goals. Carbon-linked charging rates incentivise clients to adopt sustainable practices and provide a transparent framework for billing based on environmental impact, thereby encouraging responsible behaviour.
5. **Reputation Management:** A law firm's reputation is vital to its success, and being perceived as environmentally responsible can enhance its standing in the market. That reputation is inextricably intertwined with their clients. Measuring Advised Emissions demonstrates a proactive and holistic commitment to sustainability, which can positively influence the firm's reputation among clients, partners, and the wider public. Building a strong sustainability reputation strengthens the firm's brand, leading to increased trust, loyalty, and market competitiveness.
6. **Thought Leadership and Interventions:** Measuring Advised Emissions positions law firms as thought leaders in environmental sustainability and climate action. By actively engaging in initiatives to reduce their own carbon footprint, firms can inspire clients and the legal community to follow suit. This thought leadership not only helps drive positive change but also provides opportunities for firms to develop innovative legal strategies and interventions to address climate-related challenges.
7. **Risk Profiling for Resilience to Climate Risks:** Understanding and assessing the climate risks faced by clients is becoming increasingly important. By measuring Advised Emissions, law firms can identify specific and quantifiable climate-related risks and develop strategies to mitigate them. This enables firms to offer comprehensive legal advice and support in navigating the complex landscape of climate change regulations, litigation, and compliance, thereby enhancing the clients and firms resilience and minimising legal exposure.
8. **Lower Costs of Operation and Insurance:** Professional indemnity insurers may also lower premiums for those firms that actively measure Advised Emissions.

Measuring Advised Emissions offers law firms and their clients a multitude of co-benefits that extend beyond environmental impact mitigation. By embracing this proactive approach, law firms can create a more sustainable future while ensuring long-term success in a changing legal landscape.

---

# The How - A methodology

This methodology consists of three steps that progressively increase in complexity and ambition. It is designed to accommodate firms at various stages of their journey and with different levels of resources. This inclusive and adoptable framework operates on the principle of an “escalator of ambition.”

Step 1 – Know Your Customers Carbon

Step 2 – Advised Emissions Calculations – Data Collection and Attribution

2a. Client Level

2b. Matter Level

Step 3 – Benchmarking – Insights and Performance for Application and Strategy

However, before delving into the methodology, it is important to briefly consider some key factors that have been discussed with numerous stakeholders.

## Key Considerations for a Methodology:

**Qualitative or Quantitative Methodology:** There are scholarly academic papers that advocate the merits of each type of methodology. The Law Students for Climate Accountability<sup>4</sup> employ a qualitative scorecard to assess and rank firms based on their work. While this scorecard raises awareness and serves as a valuable benchmarking tool, it solely concentrates on activities related to fossil fuels. It doesn't show the full picture, nor is it designed to.

This paper argues in favour of a quantitative methodology due to the intricate complexity of the issues at hand, as data provides concrete evidence to decision makers. Lawyers appreciate precision, and the ability to quantify emissions offers a solid foundation for making evidence-based decisions. It enhances accountability, transparency, comparability, prioritisation, and the overall effectiveness of initiatives aimed at reducing emissions. Furthermore, data can also serve as a financial proxy.

It is acknowledged that implementing a quantitative approach will be more challenging and time-consuming, but with adequate funding and collaboration, these obstacles can be overcome. Additionally, there are some initial simple steps that can be taken to understand the carbon footprint of clients, known as Know Your Clients Carbon (KYCC).

**Client or Matter (transaction Level):** There has been a debate in the workshops on Advised Emissions regarding whether to measure Advised Emissions at the client level or the matter (transaction) level. Currently, there is more data available at the client level, which makes it easier to start here. However, some argue that measuring emissions at the matter level is more attractive because it allows for separating the emissions from specific advice given to clients from their overall emission footprint.

---

<sup>4</sup> Law Students for Climate Accountability (ls4ca.org)

A matter level approach offers the advantage of identifying emission hotspots precisely and implementing customised mitigation strategies. On the other hand, a client-level approach broadens the perspective by considering the entire range of activities and engagements with clients. It recognises that emissions associated with client relationships extend beyond direct transaction mandates.

To effectively address the challenge of reducing emissions, it is crucial to adopt a comprehensive approach that encompasses both transaction and client levels. By integrating considerations from both transaction and client levels, organisations can gain a more holistic understanding of their emissions profile. This combined approach ensures a comprehensive and nuanced response to emissions reduction, addressing both internal operational improvements and external influences. Ultimately, it leads to meaningful and sustainable data relating to emissions.

## Good Work v Bad Work

Is it necessary to differentiate between the work of law firms that contribute to speeding up the transition and the work that maintains the status quo? All activities leave a carbon footprint.

For instance, the construction of renewable energy sources requires substantial amounts of steel and concrete. It takes approximately five years<sup>5</sup> of operation for the carbon used in the production of solar panels to be offset. Similarly, newly planted trees are not carbon negative during the first five years of growth<sup>6</sup>.

Therefore, it is crucial to adopt a comprehensive approach that measures all transactions and incorporates a factor to acknowledge their impact on the journey to achieve Net Zero emissions.

Furthermore, we must recognise that the existing carbon budget<sup>7</sup> should be reserved for constructing the transition infrastructure. Halting all activities is not feasible as we need to develop the necessary framework for the transition.

Consequently, we must invest some carbon to save carbon. It is essential to discern when Advised Emissions are beneficial and when they could lead to exceeding the carbon budget and causing a deficit.

---

<sup>5</sup> How Bad Are Bananas: A Carbon Footprint of Everything. Mike Berners-Lee, 2020

<sup>6</sup> 3.3 Project carbon sequestration - UK Woodland Carbon Code

<sup>7</sup> Sixth Carbon Budget - Climate Change Committee (theccc.org.uk)



## Sector and Geographical Complexity

The complexity of adopting a universal approach to Advised Emissions in a global economy is made more challenging by sectoral and geographical differences.

Different sectors, such as manufacturing, transportation, and agriculture, have unique characteristics, emissions profiles, and technological capabilities.

Moreover, geographical variations play a significant role in emissions patterns. Countries possess diverse resource endowments, development stages, emissions methodologies, and policy landscapes.

Initially, a universal approach will have to overlook the specific challenges and opportunities faced by different regions. However, as research accumulates and understanding of Advised Emissions becomes more sophisticated, it will become possible to address these issues effectively.

Acknowledging and addressing these sectoral and geographical differences is crucial. This will allow for tailored and nuanced strategies that promote emission reduction while considering the diverse dynamics of our interconnected global economy.

## The Methodology:

### Step 1 – Know Your Client’s Carbon (KYCC)

The first step is to gain a comprehensive understanding of a firm’s client base, including their transition plans and carbon footprints. This knowledge should come naturally to firms claiming to understand their clients and their goals.

Moreover, firms are already required to carry out rigorous Anti Money Laundering and Know Your Client (KYC) checks before representing a client. Therefore, incorporating carbon checks into this process would align with existing procedures and provide a deeper understanding of the client. We refer to this as Know Your Client’s Carbon. A similar concept can be found in banking with “KYC02”<sup>8</sup>.



**KYCC**  
Know Your Client’s  
Carbon

Att: Gingell/Oxygen House

This evaluation can be conducted during the onboarding of new clients and matters, as well as through audits of existing clients. For a UK-based firm primarily focusing on its UK clients, this could be as simple as adding the following fields to the matter opening form or digital onboarding framework.

---

<sup>8</sup> The Good Transition Plan — Climate Safe Lending Network

	<b>Know Your Clients Carbon (KYCC)</b> <b>It is important that we understand our clients carbon footprint, and transition plan so that we can help enable their targets.</b> <b>If the client hasn't provided this information, it will be available on their website, in their latest sustainability report or transition plan or the Director's strategic report from their statutory accounts.</b>	
1	Has the Client set a Net Zero Target	Yes/No
2	If yes, what is the target date	[2040]
3	Does the Client's target cover scope 1 and 2 or scopes 1-3? <sup>9</sup>	1, 2, 3
4	Is the Client's target a Science Based Target <sup>10</sup>	Yes/No
5	Which Sector Do they Operate In?	Insert MSCI <sup>11</sup> classification from drop down menu (or CDP sectors could be used <sup>12</sup> )
6	What is the clients carbon intensity ration from their latest set of statutory accounts.	/sq ft/employee/ £1 revenue
7	Does the Client have biodiversity or other nature based targets?	Yes/No
8	Is the Client voluntarily adopting ISSB reporting methodologies?	Yes/No
9	Does the Client want Climate Clauses <sup>13</sup> in their contracts?	Yes/No
10	Have you attached the Clients latest sustainability report or transition plan to the Client's file?	Yes/No
11	Is the Client's Transition Plan deemed to be credible as per government guidance? <sup>14</sup>	Yes/No

Based on this basic data, firms can gain valuable insights into the Client, enabling them to enhance their services and adhere to the Law Society guidance. Examples of such insights can be found in Step 3.

To ensure accuracy, the KYCC form should be regularly updated. This can be achieved through automation, where clients submit reports, or by reviewing it at a frequency to be determined, likely on an annual basis after clients issue their statutory accounts.

<sup>9</sup> What are scope 1, 2 and 3 carbon emissions? | National Grid Group

<sup>10</sup> Ambitious corporate climate action - Science Based Targets

<sup>11</sup> GICS® - Global Industry Classification Standard - MSCI

<sup>12</sup> [https://cdn.cdp.net/cdp-production/cms/guidance\\_docs/pdfs/000/003/504/original/CDP-technical-note-scope-3-relevance-by-sector.pdf?1649687608](https://cdn.cdp.net/cdp-production/cms/guidance_docs/pdfs/000/003/504/original/CDP-technical-note-scope-3-relevance-by-sector.pdf?1649687608)

<sup>13</sup> The Chancery Lane Project

<sup>14</sup> EY Analyses Published FTSE 100 Transition Plan Material | EY UK

## Step 2: Advised Emissions Calculations

Once basic data has been collected and analysed about clients, a firm can proceed to attribute the emissions of a client or a specific transaction to their work. This process is considerably more intricate and necessitates more comprehensive data sets. Presently, the most extensive data set is available at the client level due to mandatory reporting requirements on scope 1 and 2 for medium and large corporates based in the UK.

Additionally, there is substantial voluntary reporting on carbon emissions, with over 80%<sup>15</sup> of the FTSE having a Net Zero Target, and numerous investors embracing TCFD principles (now incorporated into ISSB).

### 2a. Client Level Advised Emissions

Calculating emissions at its most basic level involves two steps: identifying emission factors associated with different activities and multiplying them by relevant activity data.

In the financial sector, the relevant activity is money lent, and the Partnership for Carbon Accounting Financials (PCAF)<sup>16</sup> has developed an attribution methodology. This methodology, known as “financed emissions,” attributes a portion of the borrower’s carbon footprint to the lender based on a ratio of a specific bank’s lending to the borrower’s overall debt. NatWest Bank PLC is one of the signatories to PCAF and includes their estimated financed emissions in their climate-related disclosures report<sup>17</sup>.

Taking inspiration from the PCAF methodology and considering the challenges of obtaining consistent and reliable data, we have devised the following formula as a potential approach to calculating the Advised Emissions of a firm when representing a specific client on any matter.

**Advised Emissions:** the carbon impact of advice given, or transactions enabled, by a law firm that is outside of their scope 1-3 emissions.

$$A^e = E^C \times A^f \times T^f$$

Where:

$$A^f = \frac{F^b}{O_p}$$

$A^e$  : Advised Emissions

$A^f$  : Attribution Factor

$E^C$  : Emissions of Client

$T^f$  : Transition Factor

$F^b$  : Fees Billed to Client/yr

$O_p$  : Opex of Client (or client division)/yr.

Att: Gingell/Oxygen House

<sup>15</sup> EY Analyses Published FTSE 100 Transition Plan Material | EY UK

<sup>16</sup> Enabling financial institutions to assess and disclose greenhouse gas emissions associated with financial activities (carbonaccountingfinancials.com)

<sup>17</sup> Climate Related Disclosure Report 2022 (natwestgroup.com)

It assumes that the activity refers to legal services (or time) that result in fees charged to clients within a year (Fb), and this information is readily available from a firm's Management Information System. The emissions of a client (Ec) are then attributed using a factor calculated as a proportion of fees billed in a year compared to the client's operating expenses (Op) reported in their statutory and voluntary reporting.

This calculation produces an attribution factor (Af). Although this method of attributing emissions is not perfect and does not consider the nature of the advice provided, it is feasible because we currently have consistent and accessible data. However, the accuracy, timing, and transparency of a client's emissions data reporting are essential for this approach to work.

The operational expenditure and annual emissions target of clients can be included in the KYCC form, but it must be regularly updated and may require pro-rating to align with the firm's reporting periods.

Firms could choose to use the aforementioned formula without applying the Transition Factor (Tf) as a basic way to attribute emissions to their advice. For instance, if a firm bills a client £2m in a year, and the client reports an operating expenditure of £400m and a carbon footprint of 5m tCO<sub>2</sub>e, the firm's Advised Emissions for this client would be 25,000 tCO<sub>2</sub>e (5m x 0.005).

The issue with not applying the Transition Factor is that the emissions mentioned in the example above could be associated with the construction of renewable energy required for the energy transition across scopes 1-3. Similarly, they could be emissions from an oil and gas exploration company across scopes 1-2, or the client could be involved in both. Consequently, Advised Emissions should consider the carbon intensity of the client's sector and whether that sector is driving the transition or maintaining the status quo.

Without being an expert in these matters, there doesn't seem to be a readily available Transition Factor that can be applied to the formula.

Therefore, the table on the following page is a simple suggestion that can serve as a starting point, utilising existing sector classifications and intensity metrics from trusted sources. In this case, official statistics for the UK and England carbon footprint will be used, which report emissions by Source Industry, End Use, and Product Sector. Each approach has its advantages and disadvantages, but for the purpose of this paper, Source Industry will be utilised.

The World Emissions Clock<sup>19</sup> provides a live data dashboard that can also be used to generate a Transition Factor. It acknowledges the need to consider emissions on a global scale in a global economy.

---

<sup>19</sup> World Emissions Clock



Source Industry	GHG emissions by source industry ktCO <sub>2</sub> e 2020	% of UK Carbon Footprint	Transition Factor (Tf) (1/3 of percentage of UK footprint)
Agriculture, forestry and fishing	74,616	13	4
Mining and quarrying	59,260	10	3
Manufacturing	101,647	17	6
Electricity, gas, steam and air conditioning supply	111,710	19	6
Water supply; sewerage, waste management	24,850	4	1
Construction	10,954	2	1
Wholesale and retail trade; repair of motor vehicles	1,904	0	0
Transport and storage	48,690	8	3
Accommodation and food services	3,426	1	0
Other services	20,183	3	1
Direct household	124,767	21	7
Total	582,005	100	

Let's consider the example we mentioned earlier, where we attributed 25,000 tCO<sub>2</sub>e to the firm's advice. If the client in question was a large farming conglomerate, the Transition Factor would be 4. Therefore, we multiply 25,000 by 4, resulting in an Advised Emissions total of 100,000 tCO<sub>2</sub>e.

It's important to note that the transition factor can be adjusted to be more aggressive or softened based on the specific circumstances. However, it is crucial to maintain a consistent approach across the legal sector to facilitate comparison of reporting to clients.

The sectors listed in the table are broad and do not account for the nuances within each industry. Nevertheless, they serve as an illustration of the point being made. One possible solution to achieve greater granularity would be to adopt the MSCI classification<sup>20</sup>, which includes 74 industries and 163 sub-industries. For each industry, a factor could be created using the official carbon statistics from a specific country.

<sup>20</sup> <https://www.msci.com/documents/1296102/11185224/GICS+Map+2023.xlsx/82cc6504-9919-29e5-9789-a24fc039d0a5?t=1679087572540>

**Action 1**

While conducting a detailed sub-industry analysis is beyond the scope of this discussion, it is evident that a clear course of action needs to be identified in this white paper. This action is necessary to address industries like renewables, whose carbon footprint should be subtracted from the current carbon budgets in order to expedite the transition. One way to achieve this could be by assigning a transition factor that decreases the emissions associated with these industries. In summary we need to create a **Transition Factor Database**.

There are certain reporting decisions that need to be made in specific situations. For instance, when the Client is a division of a larger group but classified as a separate sector, like the renewable energy arm of an Oil and Gas major. One division falls under Energy, while the other is categorised as a Utility according to MSCI classification.

In such cases, we recommend calculating the proportion of the division's revenue compared to the wider group. This calculation will yield a percentage that determines which factor should be applied and serves as a discount to the Transition Factor. For example, if the renewables division accounts for 1/10 or 10% of the group businesses, the higher Oil & Gas Transition Factor should be used in the Advised Emission Formula, considering it constitutes over 50% of the Group business. Then, it is discounted by 10% for the renewable work, resulting in a Transition factor of 6 becoming 5.4 for example.

Once the list of Transition Factors has been formalised, it is crucial to thoroughly test the outlined formula on various scenarios. This ensures that unintended outcomes are avoided, especially for businesses with unusually high operating expenses or those that do not report scope 3 emissions.

Some may dismiss the above example as purely theoretical. However, we are fortunate to have boutique law firm MDY Legal taking the lead and implementing this methodology with their client base. Annex 1 includes a worked example and a summary of the insights it has provided to them.

Of course, there are alternatives to a Transition Factor and the formula could be aligned to sector emissions figures published by the World Resources Institute or others.

**2b. Matter Level Advised Emissions**

The above formula does not account for the type of advice being provided. This advice can vary greatly, ranging from facilitating a transaction to offering guidance on compliance, legal regulations, lobbying, or representation in court. Additionally, the advice can have national or international implications and may pertain to various industries. For instance, a manufacturing company undergoing a financial restructure might seek advice.

When bidding for a transaction or during onboarding, it is necessary to conduct a lifecycle assessment of the legal matter for a specific client. However, this task is not simple, as there is no readily available methodology due to the lack of data. Neither the law firms nor the clients possess the necessary information, making it impossible to develop a straightforward approach at present.

---

Causation plays a crucial role in attributing fair and proportionate responsibility at the matter level. This concept is complex to navigate. For example, if a law firm is requested by a client to provide advice on obtaining an Oil Exploration License and financing for the exploration, and the firm successfully assists the client in obtaining both, determining the carbon impact of that advice becomes challenging. Should it be limited to the operational footprint of the exploration activities, geological surveys, and exploratory drilling? Moreover, if the exploration is fruitful and drilling continues for 40 years, extracting 1 billion barrels of crude oil, should the emissions associated with achieving the original license be considered as well, or would they have occurred regardless?

To complicate matters further, multiple law firms may be involved in the transaction, working alongside finance, tax, and other colleagues over several years. How can we assign emissions accurately to the legal advice provided by a team of advisors who collaborated to achieve the desired outcome for the client?

Currently, we lack both carbon data and transaction pathway maps necessary to delve into such detailed matter-level methodologies. The permutations involved are nearly overwhelming.

Nevertheless, worthwhile endeavours are often challenging. If they were easy, someone would have already accomplished them.

**Action 2**

This paper advocates for the development of a standardised tool called the Matter Attribution Tool (MAT) in the legal industry. This tool would enable firms to efficiently evaluate the carbon impact of undertaking specific instructions and identify ways to reduce the carbon footprint associated with those instructions.

Without a MAT (Matter Attribution Tool), it is challenging to envision the widespread adoption of Advised Emissions, especially in other jurisdictions. Simply put, the benefits described earlier in this paper regarding measuring Advised Emissions will not be realised.

To tackle this challenge, the MAT needs to be funded and developed through collaboration between firms and clients. This endeavour requires cooperation, external expertise, time, and financial resources.

One potential funding source could involve Law Firms operating in the Energy Sector (specifically Oil & Gas) donating 1% of their profits from related work to a Climate Law Innovation Fund (C.L.I.F). This fund would support the development of a MAT and other climate law innovations. It may be worth exploring whether the in-house teams of Oil & Gas companies can make it a requirement for their panel firms to contribute as part of their added value and working partnerships. However, the details of this discussion will be explored in another White Paper.

---

## Step 3: Benchmarking - Insights and Performance for Application and Strategy

To assess the environmental performance of law firms' advice, it is important to establish benchmarking metrics. These metrics can be based on emissions advised per client, per legal area, or per unit of revenue generated. Benchmarking enables firms to compare their performance with industry peers and identify areas for improvement. It also facilitates comparison with decarbonisation pathways, such as those provided by the UK Climate Change Committee<sup>21</sup>.

Implementing a framework to measure Advised Emissions may come with several challenges, including data availability, client confidentiality, confirmation bias, and the need for collaboration and consistency across the industry. However, overcoming these challenges offers numerous opportunities. By quantifying and disclosing their Advised Emissions, law firms can gain new insights that can drive positive change and create social value in a way that aligns with their clients, the business of law, and the planet.

For instance, by collecting simple information in Step 1 of this methodology, a firm can:

1. Report specific key performance indicators (KPIs) such as:
  - a. the percentage of the firms' clients that have a Net Zero Target.
  - b. the average Net Zero target date for the firms client's across different sectors.
  - c. The number and value of contracts utilising climate clauses<sup>22</sup> and thus showing how the firms are embedding the Client's targets.
2. Compare target data with transition pathways to identify risks such as greenwashing.
3. Identify opportunities to engage clients on climate and biodiversity-related issues and developments.

The above is only the start and there are numerous additional insights that could be derived using proxies and data science. However, until the data is collected, the full potential of these insights will remain unclear.

From the client's standpoint, this would enable them to ascertain whether the firm is, overall, assisting or impeding the transition. Essentially, it helps determine if they are purchasing Net Zero Legal Services.

### Conclusion

---

<sup>21</sup> Climate Change Committee ([theccc.org.uk](https://theccc.org.uk))

<sup>22</sup> The Chancery Lane Project



**Action 3**

This paper proposes the convening of a Global Advised Emission Summit to address various aspects such as data collection, insight possibilities, and the funding and development of a Matter Attribution Tool. The global legal sector possesses extensive knowledge and resources, and it is crucial for us to collaborate and deepen our understanding of the subject. By working together, we can discover effective solutions that benefit law firms, clients, and the planet. Recognising that no single firm or client can accomplish this alone, it is imperative that we gather and engage in collective efforts.

## Conclusion

Measuring the emissions of law firm advice is a complex and uncertain task, but it is crucial for fostering a more sustainable legal industry. Whilst the methodology seems crude today and requires further consideration as demonstrated in the MDY case study, it is a stepping off point for refinement and improvement.

Once law firms have a clear understanding of their Advised Emissions, they can develop strategies to reduce their carbon footprint. These strategies may involve integrating sustainability criteria into client selection and engagement, promoting low-carbon legal practices, and actively collaborating with clients to minimise the impact of legal matters.

This paper aims to highlight achievable goals and important tools that can facilitate progress in this area. It acknowledges that it may not be perfect or comprehensive, but its purpose is to advance the conversation by demonstrating what is possible and the gaps in knowledge that need to be filled.

However, we must ensure that we measure and establish targets without losing sight of the point: the urgent climate and biodiversity emergency we face.

---

# Annex 1

## Case Study – application of the client level formula - Provided by MDY Legal

**Diane Harris 2023**

MDY Legal works in the international development sector, with public sector and private sector clients of differing sizes. If clients disclose data and information regarding their carbon emissions, it is typically done on a voluntary basis, rather than because they are subject to climate or sustainability regulations. To date, such disclosures have been typically aligned with the Task Force on Climate-related Financial Disclosures (TCFD) recommendations.

We have committed to net-zero by 2030. All staff work remotely. We have developed a transition plan and calculated our carbon emissions using the tools provided by SME Climate Hub. Our current carbon footprint for our baseline year of April 2021 – March 2022 was 53.8 tonnes CO<sub>2</sub>e. Not unsurprisingly, our carbon emissions are all Scope 3. However, this does not factor in emissions generated by working from home or from advised emissions – there may also be other gaps. Without including this information in our calculations and considering its impact in our transition plan, we do not consider that we can credibly achieve net-zero as we will not have calculated our total carbon footprint. We do not want to use carbon credits of any kind - although we may have to revisit this position!

We believe that all our activities have a carbon footprint. The type of advice we provide, as for most law firms, varies. We work on individual transactions and provide day-to-day on-going general corporate or company secretarial advice to clients on, for example, governance and ESG issues. None of our clients have yet achieved net-zero and all have a carbon footprint. All our clients have their own clients, who have also not yet achieved net-zero. How much does our advice facilitate the status-quo carbon footprint of our clients (and their clients) and does our advice facilitate an increase in their carbon footprint (and their clients)? How far down the chain should we go to achieve net-zero? Can we achieve net-zero by 2030 if we are working with clients whose net-zero trajectory is not the same as our own? When requesting the services of other professional advisors to support the work we are doing, how do we factor their carbon emissions into our footprint?

We don't have the answers to these questions – yet. We are using EcoAct's Homeworking Emissions White Paper to calculate our emissions from working from home and Oxygen House's formula to calculate our advised emissions.

We've set out below a worked example using one of our clients, a private sector infrastructure financing corporate group working in emerging markets. They have a Paris-aligned investment policy. They have just released their 2023-2030 strategy, where action on climate and nature is the central purpose to all they do – they want to drive the transition.

They have calculated their GHG emissions from their operations and their financing activities using the Global GHG Accounting and Reporting Standard for Financial Institutions published by PCAF.

Emissions from operations includes emissions from office and travel for business purposes. They do not yet include emissions from homeworking, procurement activities or commuting.

---

<b>2021</b>		
	<b>Emissions of Client</b>	<b>Attributed to MDY</b>
	(i) Scope 1&2 Operational Emissions - 1065 tonnes CO <sub>2</sub> e	12.78 tonnes CO <sub>2</sub> e
	(ii) Scope 3 financed emissions of which:	
	a) Scope 1&2 = 225,000 tonnes CO <sub>2</sub> e	a) 2,700 tonnes CO <sub>2</sub> e
	b) Scope 3 = 612,000 tonnes CO <sub>2</sub> e	b) 7,344 tonnes CO <sub>2</sub> e
Fees Billed to Client	USD 820,357	
Opex of Client	USD 68,080,301	
Transition Factor	?	
Attribution Factor	0.012	
<b>ADVISED EMISSIONS</b>		<b>10,057 tonnes CO<sub>2</sub>e (without using any transition factor)</b>

In applying the advised emissions formula, a series of other considerations have been identified:

- a. Would the calculation of our advised emissions change with the application of a transition factor if the client is reporting accurately on their Scope 3 emissions and has an adequate response to climate change, i.e. a high quality transition plan?
  - b. We have used the financed emissions attributed to our client in the calculation of our advised emissions, rather than the total financed emissions of the investments they are involved in. But is this correct? Would a transaction proceed without the advice of certain professional advisors?
  - c. Our client's head office is in the UK, but it finances infrastructure projects in Paris-aligned sectors in other countries. What is the transition factor we should use? What are the consequences of not using a transition factor in this calculation?
  - d. Our carbon emissions reporting period is not aligned with client's financial year. How do we pro rata?
  - e. Do we also need to factor in the just transition, particularly for clients working in countries that are not responsible for the majority of GHG emissions?
  - f. Whilst our advice is typically not transaction related, it helps the corporate group to continue to operate and carry on its financing activities. Even though we do not typically advise on individual financial transactions, our advice facilitates those transactions. Should the attribution factor take that into account in more detail?
-

- g. There is the possibility for different approaches to calculation of a client's opex (i.e what expenditure is included in opex and what is included, for example, in project or transaction expenses). Are we comparing like for like? Is this relevant?
- h. Many other advisors support our client. Is this relevant?

For us to achieve net-zero by 2030, we need better data and that will need to come from clients. Many have good data but ideally, we would need all our clients (public sector and private sector) to have verified (or equivalent) carbon reduction or net-zero transition plans.

We intend to continue our advised emissions journey calculating our advised emissions in relation to our UK public sector clients, which will provide another useful (and potentially more difficult) case study.





