

**Submission to the Commission on Devolution in Wales**  
**By the Energy Working Group of the UK's Changing Union**  
**project,**  
**October 2013**

## 1.0 Introduction

This submission is the product of the deliberations of the Energy Working Group of the UK's Changing Union project. This project is a joint initiative between the Wales Governance Centre at Cardiff University, the Institute for Welsh Affairs and Tomorrow's Wales/Cymru Yfory on the future of the Union and the Welsh devolution settlement.<sup>1</sup> An Energy Working Group was formed under the auspices of this project, which held a discussion meeting on 6<sup>th</sup> June 2013, from which working papers were produced. This submission is the key output of that working group.

The focus of this paper, as befits the work of an initiative concerned with governance issues, is how arguments about energy governance bear upon questions of whether the Welsh Government ought to acquire more energy-related powers from Westminster. It focuses on two sets of issues which we feel have been largely missing from evidence to date, and which are highly pertinent to the work of the Silk Commission:

- A considered reflection on the relationship between further devolution of energy-related powers to Wales and concerns about 'integration' in the energy system;
- An assessment of whether the devolution of energy-related powers would positively affect the quality of political debate around energy issues in and for Wales.

## 2.0 Devolution of energy-related powers and issues of 'integration'

It is undeniable that a dislocation has emerged over the last fifteen years between the political salience of energy issues *within* Wales and the powers *held by* the Welsh Government. Indeed, energy issues scarcely registered on the devolution agenda in 1998. At that time, the UK Government was of the view that, following privatisation of the energy industries – electricity, gas, coal – energy could be treated like any other commodity and thus had little need of government steering.<sup>2</sup> With the pivotal significance now afforded to issues of climate change, energy security and affordability, this position has since become untenable, and government intervention in energy provision is acknowledged to be necessary. In turn, the issue of how energy-related powers should be distributed across our system of government becomes crucial.

Yet the patchy devolution settlement of energy-related powers in Wales is more a product of institutional history than of rational governmental design. The fact that consenting powers for major energy infrastructure (large grid, power stations of 50MW or over) are determined by Westminster is the most widely debated facet of this situation. It means that some of the most high profile and controversial energy developments within Wales – nuclear power stations, the largest scale on-shore wind farms, LNG pipelines – emerge in ways which then makes it difficult for the Welsh Government to manage the social, economic and environmental consequences. The emerging prospects for the fracking of oil and gas also raises issues of dislocation, insofar as licensing is controlled by Westminster for England, Scotland and Wales, but planning policy and permissions for the sector fall within the ambit of the Welsh Government. At the micro-scale, too, the Welsh Government's aspirations to improve

the energy efficiency of the poor housing stock in the country (the ARBED project) is affected by energy market policies promulgated by Westminster. As recent surveys have shown,<sup>3</sup> these dislocations between energy development in Wales and the patchier control by government in Wales are keenly felt by parts of the Welsh population.

These dislocations assume crucial importance if the normal governance assumptions of UK energy policy are inverted. Historically, energy policy has been conceived as a central government responsibility, in which goals are set centrally, informed mainly by economics and engineering expertise, and then rolled out across the relevant territories; a top-down model in which the geographical context of implementation is deemed to be an unproblematic, 'downstream' consideration. This model is increasingly recognised to be structurally flawed.<sup>4</sup> As conflicts over on-shore wind most spectacularly illustrate, the issue of social acceptability of future energy paths – their impacts, their fairness – is a critical factor shaping whether policy is delivered, and is not something that can readily be assumed or shaped by the centre, on the basis of narrow, abstract knowledge. Indeed, the geographical and social context in which energy policy is rolled out is integral to the whole question of delivery, not simply a downstream issue.

This point bears heavily on the issue of 'integration', which is a concept much used in debates about the allocation of energy-related powers. We make three points here.

### ***2.1 'Integration' is as much a political concept as a technical concept***

Although most commentators would agree that governance arrangements should be 'integrated', translating that principle into specific actions means making allocative decisions i.e. around who (what level of government, at what scale) or what (what objective) should integration take place? Those who argue against the devolution of energy-related powers to Wales, on the grounds that it disrupts the integrated nature of energy provision across England and Wales, are effectively upholding a centralised model of energy policy, in which powers remain centred on the current incumbents e.g. the UK government. It ignores the merits of a territorial principle of integration, which would allow energy issues more readily to be integrated with other social, economic and environmental processes within a given space. There are powerful arguments which suggest that the pursuit of more sustainable energy systems requires further decentralisation, and strategies which engage more closely with the energy flows of specific territories and places.<sup>5</sup> Ambitious agendas of '100% Renewable Energy Regions'<sup>6</sup> are centrally concerned with tying together energy fluxes within a regional territory, and the close coordination of production and consumption with local resources; a processes which benefits from closer territorial integration.

### ***2.2 The risks of fragmentation are exaggerated***

The flipside of the argument above is the claim that granting further energy-related powers to the Welsh Government risks administrative fragmentation – creating a different approach either side of Offa's Dyke – which would be injurious to the rolling forward of a cohesive, effective energy policy. This argument can easily be overblown.

A powerful trend across the European Union is towards the growing cross-national integration of electricity systems: of grid networks; of energy supply markets; and of systems of market support for low carbon energy. This is an agenda promoted by the EU and strongly supported by most member states; including the UK government, but also the Northern Ireland Executive and Scottish Governments, which have greater powers over energy than Wales. It is highly unlikely therefore that future governments for Wales would deviate from these integration agendas, given the tightly coupled nature of the electricity supply system with England. Put simply, vesting more powers in the Welsh Government does not mean the pursuit of energy autarky; it just enables the people of Wales to participate more equally in debates about how energy provision should evolve, and the terms on which Wales participates in agendas of integration.

The argument that allocating more energy powers to Wales creates costs and inefficiencies for energy companies, because they would need to negotiate different consenting regimes in England and Wales, is also weak. The majority of new energy generation capacity installed in the UK over the last twenty years has come from multi-national companies which – by dint of being multi-national – are clearly perfectly capable of navigating varied policy and consenting regimes. Moreover, it is smaller energy companies and community energy projects that suffer most from the costs of regulatory complexity, but most operate within a single territory. This part of the energy sector might have much to gain from further devolution of powers, in that it would allow greater regulatory coordination at the territorial level.

Arguably, investors seek regulatory certainty as much as regulatory simplicity, but there is no reason to believe that in the UK further devolution of energy-related powers would damage this. Indeed, the greatest sources of uncertainty facing renewable energy investors in the UK have all emanated from Westminster: the planning reforms of the 2008 and 2011 Acts; the rolling out of regional planning machinery in England then its abolition in favour of localism; the ongoing uncertainties at the heart of Electricity Market Reform. Scotland has more energy-related powers than Wales and part of its success in promoting renewable energy is that it has been able to create durable arrangements for support, insulated in part from uncertainties created by Westminster.

### **2.3    *The nature of ‘the problem’***

Many of those commentators that see problems in allocating more energy-related powers to Wales implicitly adopt a very narrow perspective on what the challenges of energy policy are deemed to be: *the urgent need to consent large volumes of new low-carbon energy generation and grid capacity as quickly as possible*, much of it in the form of large-scale plant. Indeed, such views imply that democratic accountability to Wales is just another ‘regulatory barrier’ or a risk to investment. Yet as we have seen, such modes of development are prone to social resistance and challenge, as communities express concern about the impacts of energy projects and the (often limited) scope to engage in decision-making. Thus the uncritical pursuit of urgency and the overriding of democratic engagement can often prove self-defeating, as projects get mired in delay.

Arguably, the question which ought to be asked in deciding whether more powers are granted to the Welsh Government is not ‘would it achieve the biggest, quickest sustainable energy transition?’ but whether it would enable the *best possible* sustainable

energy transition? The scale and speed of investment remain important but are viewed in relation to the social, economic and environmental consequences of the energy pathways being pursued. Governance arrangements in which energy is more attuned to the social, economic and environmental qualities of territory might thus be better able to deliver on a wider set of goals, in which energy is situated in wider conception of sustainable development. And which, in turn, might proceed more expeditiously because it commands wider social acceptability. Research has shown that publics are aware of the need to see energy in relation to wider social processes, and able to engage in debates about wider system transition.<sup>7</sup>

These insights apply also to debates about fracking, where the current fragmented control of licensing powers (held by DECC) and planning powers (held by the Welsh Government and local planning authorities) ought to be seen not just in terms of expediting exploitation, but in terms of governance arrangements that would enable the best possible examination of the varied implications of utilising this potential energy source. Bringing licensing and consenting processes together within the territory of Wales may facilitate better up-front debate, and modes of development that command wider social support. That there should be more time for proper evaluation is a key platform of public concern.

### **3.0 Devolution of powers and improving the deliberation of energy issues**

What no analysis of devolution and the allocation of powers can do is second guess how governments – at national or devolved level – might use the powers available to them. However, as a society, we should be interested in arrangements of powers that facilitate effective deliberation of the challenges that we face, and open up the fullest possible array of strategies for addressing them, including energy.

Generally speaking, the focus of political debate around energy in the National Assembly for Wales has been relatively narrow. Much discussion focuses on how many jobs a given energy investment might create, when the investment is to start, concern about a particular regulatory barrier, or focuses on conflicts over the development of large-scale on-shore wind farms. Political discussion rarely explores the full array of possible energy alternatives, such as the scope for a more decentralised and diversely owned energy system, or what a 100% Renewable Energy Region agenda might mean for Wales.

The devolution settlement may be complicit in this. Some researchers are quite clear that the fact that the Scottish Government has more energy-related powers than Wales helps to explain why Scotland has been able to develop and deliver innovative energy strategies and present itself as a leader for low carbon energy investment.<sup>8</sup> Energy debate might thus be reflective of broader imbalances in the devolution settlement: “It is relatively easy to see that the more autonomous devolution settlement in Scotland gave institutional confidence to ministers and agencies alike to reach for new opportunities and evolve institutional knowledge formed from previous experience’, in contrast to the more ‘constrained’ or ‘precautionary’ devolved governance exhibited in Northern Ireland and Wales respectively.<sup>9</sup>

Powers alone do not determine policy outcomes, but there are three ways in which the limited energy-related powers held by the Welsh Government feed into diminished political discussion:

- Without powers, it is difficult for the Welsh Government to justify allocating scarce resources to officer capacity in the energy field. Consequently, it is difficult for Wales to engage in an informed way on vital but complex energy-related debates e.g. about Electricity Market Reform, grid regulation, or the EU Emissions Trading System. This limited capacity, expertise and track record then becomes a reason for some to claim that the Welsh Government should not receive further powers – a chicken and egg situation.
- Where key powers are held by Westminster, it encourages Assembly Members to engage in a narrow politics of blame - in which problems in the direction of energy development in Wales are attributed to central government - rather than to debate the kind of energy development trajectory for Wales that the parties in the Welsh Government would actually pursue. The fuzzy lines of accountability for energy development in Wales also encourage this displacement activity.
- The fact that the Scottish Government has important powers in the energy sphere, and has used them effectively, is one factor that incentivises business and other organisations to work in close collaboration with the government. This collaboration in turn extends the Scottish Government's ability to steer energy development within its territory. Many key players in the energy industry have viewed Wales as simply a region in which Westminster policy is implemented, making an asymmetric foundation for partnership working.

Counter to the centralised conceptions of integration raised above, it would be helpful to the quality of UK discussion around energy if the Welsh Government – like the other devolved administrations – had sufficient powers to pursue distinctive energy strategies, and the locus to challenge the direction set and decisions of Westminster. At present, the Welsh Government like other devolved governments has access to the Westminster policy making processes, and scope to offer a view, but any disagreements of view are not backed with authority.

If Westminster could not straightforwardly roll out its policy across England and Wales, this would prompt greater attention to how those policies might 'fit' the particular social, economic and environmental context of Wales. Thus empowering sub-national government like Wales to govern a wider array of energy issues within their territory would encourage more thoughtful, more reflexive, energy governance across the UK as a whole. Greater diversity of approaches to sustainable energy transition across the UK would also generate a wider series of lessons from which to learn; at present, the 'laboratory of devolution' is not working as fully as it might for energy issues. It is more than a coincidence that among nations that have taken the most radical agendas towards the pursuit of sustainable energy are those with a strongly federal structure (Germany) or strong local government (Denmark), in which sub-national government is a powerful player in national energy debates, and in which sub-national governments can pursue energy strategies with a very high degree of territorial integration (as discussed above).

## 4.0 Summary of key points

Debates about the devolution settlement for energy need to give much more critical attention to issues of governance than they conventionally receive, and how such governance arrangements serve more fundamental agendas of sustainability.

Concerns that devolution of energy consenting powers to Wales would cause problematic fragmentation of the UK electricity system and energy investment landscape are highly loaded, and often overblown. A more autonomous Wales would very likely sustain high levels of market and grid integration with England – as do Northern Ireland and Scotland.

Integration can run in any direction: more powers for Wales would help promote greater territorial integration – attending to the economic, social and environmental effects of energy provision – which many would suggest is vital to forging more sustainable solutions.

Granting further energy-related power to the Welsh Government could improve the quality of deliberation on energy alternatives, both within Wales and in the UK as a whole, insofar as it would encourage Westminster to attend more carefully to the conditions and priorities emerging from the regions of the UK.

The fact that key energy-related powers are not held by the Welsh Government is an ingredient in the generally narrow ambit of political discussion of energy issues; a genuine problem, given (i) the need to forge sustainable energy pathways for Wales that are better attuned to the social, economic and environmental context (ii) the desirability of opening up alternative pathways for more sustainable energy futures.

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### References

<sup>1</sup> <http://ukchangingunion.org.uk/en/index.php/home/>

<sup>2</sup> Helm D (2003) *Energy, the State and the Market. British Energy Policy since 1979*, Oxford University Press: Oxford.

<sup>3</sup> Commission on Devolution in Wales (2013) *Public Opinion Survey – Non Fiscal Powers*, Research Findings Report, prepared by Beaufort Research.

<sup>4</sup> Shove, E., 1998, Gaps, barriers and conceptual chasms: theories of technology transfer and energy in buildings. *Energy Policy*. 26(15), 1105-1112; NADAI A. (2007f) “Planning, Siting and the local Acceptance of Wind Power : Some Lessons from the French Case”, *Energy Policy*, 35, 2715–2726.

<sup>5</sup> Lovins. A.B. 1977. *Soft Energy Paths: Toward a Durable Peace*, Penguin: Harmondsworth.

<sup>6</sup> See for example, <http://www.go100percent.org/cms/index.php?id=19> accessed 1<sup>st</sup> October 2013.

<sup>7</sup> UK Energy Research Centre (2013) *Transforming the UK Energy System: Public Values, Attitudes and Acceptability*, July, UKERC: London.

<sup>8</sup> Hodson S and Marvin S (2013) *Low Carbon Nation?* Earthscan, London.

<sup>9</sup> Cooke P and Clifton N (2005) Visionary, precautionary and constrained ‘varieties of devolution’ in the economic governance of the devolved UK territories, *Regional Studies* 39(4), 437-451.