

Commission on Devolution in Wales

Written evidence: Dr Richard Cowell, Cardiff University, 19th July 2013

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Introduction

This statement has been prepared in support of my oral evidence, given to the Commission on 5th July 2013, and is intended as clarification. I have based it around the questions submitted to me in advance, as a basis for that oral session (included as appendix 1), though I have not answered each question individually. The information for my answers comes from data collected for the recently completed research project Delivering Renewable Energy Under Devolution, which was funded by the Economic and Social Research Council (<http://www.cardiff.ac.uk/cplan/research/delivering-renewable-energy>; main reports are on <http://www.cardiff.ac.uk/cplan/research/delivering-renewable-energy/outputs>)

I would make four over-arching points before turning to points of detail:

Many commentators will have made a powerful, principled argument that the government machinery of Wales ought to have the powers to shape patterns of development that are palpably important to people living in Wales i.e. principle of self-determination. There are a number of energy-related issues that are demonstrably of high political salience in Wales at present (e.g. around wind farm and grid development, possible nuclear new build, energy efficiency in homes), and greater control at Wales level might be argued to be intrinsically desirable.

However, identifying specific ways in which allocating particular powers from Westminster to Cardiff will *make a difference to outcomes* in the energy field is much more difficult. This is partly because it is not the possession of the powers *per se* but the way in which they might be exercised that makes a difference. This leads us towards imponderable issues:

- How might future Welsh Governments exercise any such powers devolved to them?
- To what extent will they exercise them in ways very different from, and more effectively in terms of energy outcomes, than the UK government would otherwise have done?

These are not easy questions to answer, but our own research on renewable energy outcomes shows that the way in which powers are exercised can greatly affect outcomes. Thus, successive Scottish Governments have made assertive and strategic use of relatively limited powers in the energy field, yet have achieved significantly greater renewable energy growth than Northern Ireland or UK/England, both of which possess more energy-related powers to shape development within their territory. Recent political and policy moves against on-shore wind in England show how difficult it is also to create a stable basis for comparing policy performance.

Reflecting on the above, I see real limitations in trying to imagine the benefits or costs arising from the future devolution of energy-related powers to Wales, based on questions which focus on short-term, instrumental costs or benefits. Most immediately, some of the questions are of very short-term policy relevance (as I explain below). Secondly, the answers tend to be shaped by powerful, institutional path-dependencies, as energy systems are slow to change. Thus it is difficult to imagine how future Welsh Governments may act in areas where they have had no history of policy-making capacity, yet it is also difficult to legitimise the creation of capacity where powers are limited. Equally, for many commentators their views on the desirability of shifting consenting powers of projects over 50MW to Wales is strongly shaped by the possible consequences for specific projects already well advanced in the planning pipeline.

Questions based on short-term issues of delivery do not easily open up wider debates about the quality of politics. For example, if the governing machinery of Wales had full consenting powers over energy generation and grid, might it encourage qualitatively better political debate on alternative energy futures for Wales? Might it encourage the widening of agendas i.e. the proper questioning of the merits of nuclear power or gas-based development in Wales, or the best balance between energy generation and conservation, or between centralised and decentralised energy provision? Without further devolution of energy-related powers, there must be risks that, when it comes to energy issues, politics in Wales remains trapped within narrow circuits: only able to debate the details of delivering energy agendas shaped by Westminster, yet with the parties involved perpetually blaming Westminster for aspects of those agendas that have undesirable consequences in Wales.

More detailed points

What are your thoughts on the current devolution boundary for energy policy? Should overall energy policy and regulation of the GB energy market remain non-devolved, for example, OFGEM?

Although ‘energy policy is not devolved’, in practice successive Welsh Governments have drawn up energy-related policy statements. It is thus difficult to talk about ‘energy policy’ without focusing on specific institutional arrangements, powers and levers that make up ‘energy policy’: market support; consenting regimes, etc.

There is no innate logic to the current boundaries to energy-related powers between Westminster and Cardiff, reflecting as it does divisions inherited from pre-devolution days. Arrangements whereby consents for electricity generating stations of 50MW or over were determined centrally, by Westminster date back to the setting up of the CEGB, and an era where the CEGB was responsible for almost all electricity generation of any scale.

There are powerful, EU-wide pressures favouring the creation of integrated markets for electricity and, at present, seamless integration between electricity systems in Wales with those in England. Given this, there is a powerful case for retaining regulatory arrangements for electricity markets which span England and Wales, with regulators that are to some degree arms length from government, like OFGEM. (The separate regulator in Northern Ireland is a poor analogue, as the electricity system there has long been separate – bar recent interconnectors – with a distinctive set of challenges arising from integration with the Irish electricity market and the age of the grid). The question then becomes what status Welsh Governments should have in setting the overall arrangements for governing OFGEM?

The same dilemma would face an independent Scotland: more political autonomy can go hand in hand with strong pressures for integration of energy systems.

Is the current devolution boundary suitable in terms of approving development consents for large scale energy generation, such as windfarms, in Wales? How does the current system work for approving development consents for offshore energy projects above 1MW? Do you think that the responsibility for Welsh offshore waters, including licensing functions, should be devolved to the Welsh Government?

These are difficult questions to answer with any precision, as it depends on the goal.

- If the concern is that significant, large-scale renewable energy capacity should be consented as swiftly as possible – perhaps to deliver on renewable energy targets - then there is no a priori reason to believe that a Welsh Government would consent more capacity, more quickly, than Westminster. However, if the political mood in Westminster swings against renewable energy (as some might say it has done since 2010), then one might calculate that the consenting environment in Wales is becoming more positive by comparison. But there are no guarantees.
- The same applies off-shore. Here, most large-scale off-shore renewable energy projects have received consent under the present arrangements. If approval is the goal, the present system works.
- There are undeniably some anomalies and complexities to the allocation of consenting and licensing roles between Westminster and Cardiff, between national and local government, and across different size categories of electricity-generating infrastructure. Devolution of powers to the Welsh Government may offer some scope for administrative integration, and this may be especially advantageous to smaller, off-shore renewable energy projects facing more difficult up-front financial risks. Much is made of the way in which Marine Scotland offers a cohesive approach to managing offshore licensing and consenting in Scotland for small-scale infrastructure,

and devolution of powers to the Welsh Government may facilitate a similarly cohesive approach.

- It is hard to attribute much significance, in the marine sphere, to the 50MW or 100MW threshold question. Most new, more innovative, riskier marine renewable energy projects are below 50MW (so devolution of offshore consenting powers from 1MW to 50MW would catch them); most major offshore renewable energy projects, such as offshore wind are measured in the 100s or 1000s of MW.
- The main area in which the current devolution boundary for on-shore electricity generation development consents is problematic concerns the relationship between a consenting process managed from Westminster (for power stations of 50MW or more) and planning policy in Wales. Much anxiety has arisen around on-shore wind, where Westminster's National Policy Statements for energy are perceived to place insufficient weight on Welsh planning policy, especially Technical Advice Note 8 which seeks to steer on-shore wind to a small number of 'strategic search areas'. In practice, central government may well place some weight on TAN 8 (TAN 8 policies have been a factor in previous consent decisions), and this policy tension may matter little if one's main concern is simply consenting more on-shore wind. The more strategic point is that, at present, the Welsh Government is unable to ensure that large-scale energy generation development is consistent with its qualitative, spatial and environmental goals. This point might be better addressed if one asked a wider question: is the Welsh Government able to promote the *best* expansion of renewable energy, which commands widest social acceptability, rather than simply the largest or quickest?
- Other problems, such as the apparent disarticulation between consenting for energy generation projects and the grid connections and capacity enhancements that result cannot neatly be attributed to the devolution settlement. It is an enduring problem, across the UK, shaped in large part by the privatized electricity industry, such that generation and grid projects are proposed by different companies, with the latter placed in a dependency arrangement on the former by an 'obligation to connect'. The Scottish and Westminster governments possess all the requisite consenting powers over power stations and grid but have yet to find a way to ensure that there is some comprehensive assessment of the effects of power stations and their necessary grid connections.

Do you wish to see any changes to the land use planning system in Wales, such as the devolution of the Planning Inspectorate?

The Welsh Government already possesses significant planning powers that are relevant to energy development, apart from those pertaining to larger electricity generating schemes (above 50MW onshore and above 1MW offshore).

While it might fit with an agenda of self-determination to devolve the Planning Inspectorate to Wales, in practice inspectors dealing with cases in Wales could be made answerable to Welsh Ministers, and give appropriate weight to Welsh planning policy, without formally creating a new, separate Welsh branch.

Would additional responsibility for development consents, renewables obligation and offshore waters help the Welsh Government achieve its targets for renewable energy?

The Welsh Government has set itself an ambitious agenda for renewable energy development. *A Low Carbon Revolution: The Welsh Assembly Government Energy Policy Statement* (WAG 2010) announced a key aim to generate from renewable sources up to twice as much electricity annually by 2025 as was consumed in Wales in 2010. These are expressed as ‘aims’ rather than targets. Moreover, the UK-wide targets of the EU Renewable Energy Directive (which require 15% of energy to come from renewable sources by 2020) only apply directly to the UK Government, not the Welsh Government.

Whether additional responsibility for development consents, renewables obligation and offshore waters would help the Welsh Government achieve its targets for renewable energy is one of those imponderable questions. In the short-term, as noted above, it depends on whether one believes that Westminster is more likely to say ‘yes’ to major renewable energy projects within Welsh territory than Cardiff, many of which are already in the planning process. It is scarcely a matter of powers over the renewables obligation, as I explain below, though the nature of financial support for renewables is a factor. Wales’s 2025 aims depended partly on the prospects of sharing the output of a Severn Barrage; a cross-border project never wholly in its gift.

One might say that the huge scale of the Welsh Government’s ambitions for renewable energy could only be achieved by very large-scale, inward investments, but these are precisely the category of projects most likely to exacerbate questions of cross-border coordination and to face lengthy planning processes. One question is whether devolving key powers might enable the National Assembly to identify and deliberate a wider range of future energy pathways towards future targets, including those in which large generation projects are less prominent, there is greater community engagement, and more integration between electricity, heat and transport.

What additional resources / capacity are required from the Welsh Government to deliver renewable energy targets if it had any additional powers for energy?

If the Welsh Government acquired additional powers, then it would need the capacity and resources to deliver them. There would clearly need to be the staffing available for running a consents team (for which staffing in the Scottish energy consents unit might be a model, granted that it processes more applications than Wales would do). For market support for renewables, the staffing required to run this function in Northern Ireland might be a good analogue.

What are your thoughts on the current settlement in terms of Renewables Obligations Certificates? Has the current settlement for Renewables Obligations Certificates restricted the Welsh Government’s ability to attract renewable energy developments to Wales compared to Scotland and Northern Ireland? Do you think that the proposed Electricity Market Reform (including Contracts for Difference) will ensure parity for the Devolved Administrations?

My main observation is that to link the devolution of energy-related powers for Wales to the Renewables Obligation (RO) is short-sighted, given the limited remaining shelf life of this policy. The RO will only remain open to new generation until 31 March 2017. Until then, new renewable generation that comes online between 2014 and 2017 will be able to choose between ROCs and the replacement system of support, Contracts for Difference (CfDs). After March 2017, levels and length of support for existing participants in the Renewables Obligation will be maintained until 2037.

Viewed historically, the introduction of banding into the RO by the Scottish Government, to incentivise emergent marine renewables (wave power and tidal power) was one factor encouraging more research and development projects in this sector to move to Scotland. Imaginative economic development support, clear political agendas for growing the sector, collaborative work across Europe, are other factors. The banding differences were subsequently generalised across England, Wales and Scotland, removing the cross-border differentials. This has the effect of achieving parity of financial support.

The introduction of CfDs should entrench parity across England, Scotland and Wales insofar as it will remove the powers of executive devolution that the Scottish Government has been able to exercise over the ROC. I am less sure that ‘parity’ should be the only concern here:

- A large number of commentators have raised more fundamental criticisms about CfD and its likely effectiveness in stimulating renewable energy development vis-à-vis nuclear power. At the very least, there is a concern that its complexity will perpetuate the difficulties facing new entrants to UK electricity markets, leaving supply reliant on relatively few, major, international companies. The lack of powers in this sphere is constitutive of a situation in Wales in which alternative forms of financial support for sustainable energy development are rarely debated.
- However – even were Wales to be granted more powers over the system of market support prevailing in Wales – there would still be problems of financial autonomy. Any small country within the British Isles looking to achieve very significant increases in renewable energy development needs to recognise its dependence on the large pool of resources offered by UK (mostly English) electricity consumers. Thus Northern Ireland’s use of its powers to design its own system of financial support is strongly shaped by such considerations, hence it will participate in CfD. An independent Scotland would face the same dilemmas. There are of course accountability arguments that powers should only be issued with parallel financial responsibility.

Do you think that the responsibility for Welsh offshore waters, including licensing functions, should be devolved to the Welsh Government? What are your thoughts on the current relationship between the Welsh Government and the Crown Estates? Do you think that the ownership of the Crown Estate in Wales should be transferred to the Welsh Government? Do you think there should be a similar administrative arrangement as Scotland in relation to the Crown Estate in Wales i.e. a Welsh board member?

This is not my area of expertise. The only point that I would make is that bringing ownership of the Crown Estate in Wales to the Welsh Government might enable a better quality of debate about the kind of off-shore renewable energy development pathway that is appropriate for Wales, and open up discussion on how the royalties from resource exploitation should be best invested.

Appendix 1: Questions sent 3rd July 2013 for oral session 5th July 2013

The Commission will be interested to hear your views on the following issues:

- What are your thoughts on the current devolution boundary for energy policy?
- Should overall energy policy and regulation of the GB energy market remain non-devolved, for example, OFGEM?
- Is the current devolution boundary suitable in terms of approving development consents for large scale energy generation, such as windfarms, in Wales?
- Do you wish to see any changes to the land use planning system in Wales, such as the devolution of the Planning Inspectorate?
- How does the current system work for approving development consents for offshore energy projects above 1MW?
- Do you think that the responsibility for Welsh offshore waters, including licensing functions, should be devolved to the Welsh Government?
- What are your thoughts on the current settlement in terms of Renewables Obligations Certificates? Has the current settlement for Renewables Obligations Certificates restricted the Welsh Government's ability to attract renewable energy developments to Wales compared to Scotland and Northern Ireland?
- Do you think that the proposed Electricity Market Reform (including Contracts for Difference) will ensure parity for the Devolved Administrations?
- What are your thoughts on the current relationship between the Welsh Government and the Crown Estates?
- Do you think that the ownership of the Crown Estate in Wales should be transferred to the Welsh Government?
- Do you think there should be a similar administrative arrangement as Scotland in relation to the Crown Estate in Wales i.e. a Welsh board member?
- Would additional responsibility for development consents, renewables obligation and offshore waters help the Welsh Government achieve its targets for renewable energy?
- What additional resources / capacity are required from the Welsh Government to deliver renewable energy targets if it had any additional powers for energy?
- What is your vision for the future of the energy sector in Wales? What, if any, additional powers would you want to be devolved to achieve this?