

Huw Irranca-Davies

Chair, Constitutional and Legislative Affairs Committee

26 September 2016

Dear Huw,

**Wales Bill: Reservations within the remit of the Climate Change, Environment and Rural Affairs Committee**

On 14 September 2016, we considered the reservations included in the Wales Bill that relate to the remit of the Climate Change, Environment and Rural Affairs Committee.

To support this discussion, the Assembly Commission's Legal Service provided a written briefing summarising the issues associated with these reservations. This briefing is enclosed and we ask that you consider it when drawing your conclusions in relation to the Wales Bill ('the Bill').

In addition to the issues raised in this briefing, we have three further concerns that we would like to draw to your attention.

**Adjustment to legislative competence of the Assembly following the UK's exit from the European Union**

Many of the policy areas which fall to be scrutinised by the Committee are strongly influenced by EU policy and legislation. In particular the areas of agriculture, fisheries and the environment.

Under the existing settlement these are areas where the Assembly has a wide scope to legislate. This also (subject to any concerns raised in the enclosed legal briefing) remains the position under the Wales Bill.

The Committee wishes to maintain the Assembly's legislative competence in these areas after the United Kingdom leaves the European Union. We would welcome confirmation from the UK government as to whether it accepts this position.



## Energy consenting

Our predecessor committee, the Environment and Sustainability Committee, wrote to the Secretary of State for Wales to express concerns around narrow devolution of energy consenting powers.

We share some of these concerns.

The Bill proposes that the Assembly will gain competence over:

- all onshore wind electricity generating projects in Wales; and
- All other electricity generating projects in Wales and in Welsh territorial waters up to 350MW.

Our predecessor committee called for the full devolution of energy consenting when following-up on its 2012 report on *Energy policy and planning in Wales*.

Our predecessor also called for devolution of the financial incentives related to renewable energy and for consenting of grid infrastructure improvements.

We offer two further causes for concern in relation to this aspect of the proposals.

Firstly, we are concerned that the 350MW ceiling is arbitrary. The Silk Commission provided a justification for this limit, but it can be questioned, particularly as the situation in Wales has moved on considerably since the Silk Commission looked at this issue.

We have seen projects such as the Swansea Bay tidal lagoon progress, and proposals for larger tidal lagoons are now on the table.

Under the Bill's proposals, Welsh Ministers could have consented the Swansea project. But they could not consent the larger projects that are being planned elsewhere in the Severn Estuary near Cardiff and Newport and off the north Wales coast. There has been no explanation of the rationale behind this decision.

Our second concern is that the development of energy policy in Wales is increasingly diverging from the UK position.

Simply increasing the ceiling for the types of development that can be consented in Wales will not enable Wales to do much more than take some limited decisions within the UK policy framework. It cannot develop and implement a truly devolved energy policy for Wales without far broader powers in areas such as electricity supply, grid regulation and the incentives regime.



## Heat and Cooling

This is a new reservation which did not appear in the Draft Bill.

Paragraph 217 of the Explanatory Notes states that the section reserves production, distribution and supply of heat and cooling. It defines combined heat and power systems (also known as co-generation) as installations which simultaneously produce electrical power and also capture heat for use.

Combined heat and power developments are usually seen in the context of local developments. We would like further clarity around the rationale for including this reservation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M Reckless', is centered within a light grey rectangular box.

Mark Reckless AM  
Chair of the Climate Change, Environment and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

