

Metapolicy Options for Energy in England

EPRG Working Paper 0818

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Abstract This paper considers policy for policy-making – “metapolicy”. It specifically considers the current structures for energy policy making applying to England within the UK. The current policy landscape is described with a view to assessing possible improvements in policy goal-setting and policy implementation. Three options for an alternative governmental structure for energy policy making are analysed. The three options are a new Department for Energy with a Secretary of State in the Cabinet; an Energy Agency perhaps with a strategic remit and thirdly more cooperative policy structures between numerous institutional actors. The analysis relies upon a series of interviews with a diverse community of expert stakeholders with substantial experience of UK energy policy. The various options are assessed to have differing strengths and weaknesses and as a general principle the authors concur with the view that, when in doubt, the metapolicy with the strongest structural inclusion of democracy is generally to be preferred. The paper concludes with a modest recommendation that the current Minister of State for Energy should be given a position within the Cabinet as an interim measure until more effective structures can be developed.

Keywords British Government, Energy Policy, Politics, Democracy

JEL Classification Q48

Contact wjn21@jbs.cam.ac.uk
Publication August 2008
Financial Support ESRC - TSEC 3



METAPOLICY OPTIONS FOR ENERGY IN ENGLAND

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EPRG Working Paper

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1. Introduction

The twenty-first century has started with the return of energy as a major issue of geopolitical and national concern. The UK has not been exempt from these trends and realities that seemed stable and secure only ten years ago now seem to have been naïve and unsustainable. In the 1990s energy supplies were cheap and plentiful, environmental externalities appeared well managed and security of supply fears had long since disappeared from mainstream news reporting. The future of energy in the UK appeared to be based upon a global market in oil with leadership being provided by the international oil companies and electricity based upon clean and plentiful natural gas combusted efficiently in combined cycle gas turbines. Today national oil companies appear to have more power than the more liberal international oil companies¹ and gas ceases to appear to be the benign panacea that it once did. British domestic consumers have seen all their energy costs rise dramatically causing political difficulties. While it is true that liberalised markets in energy were always only meant to yield economic efficiency and not lower prices it appears that point has not been well understood politically.

This paper concerns itself with what we might term *metapolicy*² – that is policy for policy-making (Dror, 1971). It is concerned with issues of governance for energy policy in England. We restrict our comments to England because since the Labour party came to power in the UK in 1997 it has moved aggressively to devolve power in the nations of the United Kingdom, from Westminster to regional seats of government (with differing powers and responsibilities) in Edinburgh, Cardiff and Belfast. Issues relating to devolution and UK energy policy are discussed in chapter 9 of the 2007 Energy White

¹ See Wolf & Pollitt (2008)

Paper (DTI, 2007). Some aspects of energy policy (e.g. fuel poverty) are devolved to all UK administrations (including Wales, which in most other respects has a common energy policy with England). In England all central political power still resides in London in the UK Government and the UK Parliament. For simplicity and to avoid possible confusion we shall restrict our comments to the issues as faced by England, although we recognise that some issues discussed may have a wider applicability.

Importantly this paper does not concern itself with the actual goals of UK energy policy except perhaps in so far as to consider the outer boundaries of all conceivable energy policies. We intend to consider structures capable of delivering any sensible policy goals efficiently and effectively. It is perhaps sufficient to state that broadly, and perhaps somewhat simplistically, UK policy focuses on: ensuring that consumers have access to environmentally benign and reliable energy, minimising the occurrence of fuel poverty and strengthening national and international energy markets. For readers with an interest in the UK's current energy policy goals we recommend consulting the Energy White Paper of 2007 (DTI, 2007). Clearly it is arguable that policy structures, especially for policy implementation, should be shaped in the light of the policy goals applicable at the time. We do not contest that suggestion, but we posit that the UK's current policy structures are not a consequence of such a rational process. Rather, they are for the most part the historical accretion of incremental developments. This paper seeks to explore possibilities for a more radical restructuring capable of delivering top-level policy benefits.

It is not our intent to survey the energy industry in England nor do we intend to provide a comprehensive assessment of the success or otherwise of British energy policy and to compare it to international best practice. These functions are ably undertaken by the International Energy Agency in its series *Energy Policies of IEA Countries* (IEA, 2007).

Why do we need an energy policy?

Until the 1980s there was widespread international consensus that energy services included numerous natural monopolies and that the engineering and geopolitical challenges of the industry required strategic interventions. Such monopoly approaches were regarded as yielding scale economies which helped offset the inefficiencies that arose from a lack of competition. By the 1980s however the world was changing energy was moving from a predominantly national to an international concern. Trade policy was replacing industrial policy as a determinant of energy prices. Information Technology innovation was allowing more decentralised planning and control of complex industries. The time was right for privatisation and market competition and in the UK there was a

champion in the form of the Prime Minister Margaret Thatcher. From her 1980s governments on there has been a political consensus in government that liberalised energy markets are vital for British prosperity. Market liberalisation is not a means by which the UK has sought to achieve its policy goals it has been a policy goal and in much of the 1990s, the dominant policy goal. Even as politicians led the British energy industry towards competitive markets there was a consensus of some irreducible needs for an energy policy. Typically these policy minima included – the avoidance of market failure (especially upstream market power) and the management of externalities (such as pollution), preferably via the internalisation of such factors in the market.

In recent years doubts have crept in. Increasing attention is being paid to those, such as Dieter Helm at New College Oxford who always advocated caution. Dr Helm's view is perhaps summed up by the aphorism "Private ownership is not sufficient" (Helm, 2003a). Several of our interviewees consulted for this work reminded us that energy is an inherently political area dominated by technological factors. The challenge of this paper is to explore whether the constitutional and governance structures in England are suitable for the energy challenges that we face in the early twenty-first century.

Energy, like food, water or healthcare, is arguably a special commodity, in that it may be regarded as being essential for life in north-western Europe. By contrast, postal services, telecommunications or rail transport are less fundamental. Whether such distinctions are indeed relevant is a matter of personal philosophy, but it is clear that such notions enter into political discourse on energy and there is a recurrent notion that access to affordable energy is a societal right to be protected by the state.

The goals of energy analysis and planning have included: determination of the energy needs of the economy for the future, the choice of the mix of energy to meet those requirements at the lowest costs, diversification of supply and reducing dependence on foreign sources, the meeting of requirements for national security and the needs in terms of defence, preservation of the environment and preservation of national welfare. (Munasinghe and Meier, 1993). Energy policy implies compromises between economic growth and environmental protection, national interests and international cooperation, to sum up, energy policy requires a continual trade-off between conflicting interests (Bending and Eden, 1984).

At this point we must concede that we do not present a scientific methodology for metapolicy assessment and appraisal. Such a task would we believe to be both complex and impossibly controversial. Rather we present a qualitative and somewhat

impressionistic appraisal which is no doubt somewhat subjective and open to reinterpretation. Despite such weaknesses we trust that our work is in some way a useful contribution to thought in this area.

Energy Policy - The Central Players

Department for Business, Enterprise and Regulatory Reform (BERR) Energy Group (BERR, 2008)

The BERR Energy Group (EG) is led by the minister for Energy. Originally it emerged from the former Department of Energy in 1992 when the group moved into the Department of Trade and Industry (DTI) before being reallocated to BERR on its creation in 2007. The EG’s goal is to provide UK citizens and businesses with “secure, sustainable, affordable energy”. More precisely, it has four main objectives: to deal with security of supply, sustainability, management of energy and nuclear safety. In order to do so, the group has focused on three main “sub-objectives”: analytical capabilities, communication and negotiation with other actors, and prioritisation of tasks. In addition the Energy Group possesses a Strategy Unit.

FIGURE 1: BERR ENERGY GROUP ORGANOGRAM (SOURCE: BERR)

Department for Business, Enterprise & Regulatory Reform
Energy Group Organisation
 Updated 7 July 2008
ENERGY GROUP – WILLY RICKETT, DIRECTOR GENERAL

Energy Strategy and International Unit 1 Paul McIntyre (Strategy)	Energy Strategy and International Unit 2 Graham White (Internt)	Energy Markets Unit Edmund Hosker	Energy Development Unit Jim Campbell	Renewable Energy & Innovation Unit Simon Virley	Cleaner Fossil Fuels Unit Martin Deutz	Nuclear Unit Mark Higson
Strategic Delivery & Resource Jeremy Allen	European Energy Tim Abraham	Regulatory Framework Neil Feinson	Licensing, Exploration & Development Simon Toole	Renewable Energy Strategy Chris Barton	Cleaner Fossil Fuels Policy Bronwen Northmore	New Nuclear Adam Dawson
Energy Bill Daron Walker	International Energy John Neve	Energy Resilience Michael Rutter	Offshore Environment & Decommissioning Wendy Kennedy	Renewables Deployment Duarte Figueira	CCS Competition Julian Hartley	Non-Proliferation Policy Mel Draper
Energy & Climate Change Strategy Elisabeth Cuthbertson	International Oil To be appointed	Market Instruments Matilda Quiney	Development Consents & Planning Reform Richard Mellish	Severn Tidal Power Project Sarah Rhodes		Nuclear Policy Derek Lacey
Strategic Analysis Ulrike Hotopp		Energy Market Economics Tera Allas	Coal Liabilities Unit Ian McKenzie	Distributed Energy Stephen de Souza		
		Energy Statistics Duncan Millard	Renewables, Decommissioning & Carbon Capture Readiness Dr Elaine Drage	Energy Innovation Dr Jeanie Cruickshank		
				Heat Hergen Haye		

The EG is a clear attempt to rationalise, centralise and organise national energy policy-making. Hence, the four objectives of the group are wide, and tackle many dimensions of

energy policy (e.g. environmental, economic and social). Besides, it is under the responsibility of an industrial-oriented government department, and aims at “increasing productivity by supporting successful business [...] and ensuring fair markets”, under the motto “Prosperity for all”. This gives insight into an inner cultural preference of the DTI and more recently BERR.

Department for Environment, Food and Rural Affairs (DEFRA): Climate Change and Energy (DEFRA, 2008)

DEFRA’s principal aim is sustainable development, defined as “development which enables all people throughout the world to satisfy their basic needs and enjoy a better quality of life without compromising the quality of life of future generations” (DEFRA, 2008). Under this principal aim, there are five priorities, the first one being “Climate change and energy”.

DEFRA’s tasks considering this topic are the reduction of greenhouse gas emissions (nationally and internationally) and fuel poverty. As an aspect of social policy it can appear odd that leadership on fuel poverty falls within the remit of DEFRA (in coordination with BERR and Department for Work and Pensions (DWP)).

While the BERR department exists to facilitate industrial development and competition, the authors’ own experience and anecdotal evidence suggests that DEFRA civil servants often possess a green ethos leading to a conception of the energy policy challenge as being an adjunct to environmental policy.

Office of Gas and Electricity Markets (Ofgem) (Ofgem, 2008)

Ofgem is the economic regulator of the UK electricity and gas markets. Its first priority is to protect consumers. The body promotes competition and regulates monopoly companies (those responsible for gas pipes and electricity cables). It is noticeable that although centring its activities on economic decisions, Ofgem, has a strong influence on energy policy including via its role in suggesting to government the design of electricity and gas markets. Ofgem authorises companies to compete in the market and arguably thereby has an impact on the generation mix and the geographical situation of new facilities. Ofgem also decides the extent to which security of supply is market driven or regulated (Hartley, 2003). Ofgem has in recent years taken responsibility in energy policy on a wider scale and has begun to move away from a purely economic agenda as a result of the 2000 Utilities Act. It possesses seven main goals (Ofgem, 2005), including

security of supply, the European dimension, environment and fuel poverty. On the one hand, if Ofgem's expertise and success in setting price caps and regulating incumbents has been proved, it is not yet fully demonstrated that these new policy goals are within Ofgem's strong competence. On the other hand, it is a positive quality that this regulator has shown a capacity to adapt to changing contexts. Michael Pollitt has recently reviewed the role of Ofgem and the place of economic regulation in the British electricity industry of the twenty-first century and has made wide-ranging suggestions (Pollitt, 2008)

Ofgem is governed by the Gas and Electricity Markets Authority (GEMA) consisting of non-executive and executive members. The Chairman is appointed by the SoS for Enterprise and Regulatory Reform and Ofgem refers to Parliament (Parliament, 2003). Non-executive members come from various sectors including: industry, social policy, environment and finance. Ofgem's costs are supported by the energy companies who are licensed to run the gas and electricity infrastructures. Ofgem's powers and duties are specified by various Acts of Parliament including: the Gas Act 1986, the Electricity Act 1989, the Utilities Act 2000 and the Energy Act 2004. In addition Ofgem's remit is affected directly by European Union legislation via the powers of the various EU Treaties.

Satellites Orbiting the Energy Policy Centre

Peripheral Whitehall Departments

The other Departments involved in English energy policy are:

- *Department for Transport* (DfT): its main objective is to "oversee the delivery of a reliable, safe and secure transport system that responds efficiently to the needs of individuals and business whilst safeguarding our environment" (DfT, 2008). DfT is committed to both Kyoto and domestic targets concerning greenhouse gases, although the aviation sector raises special considerations, given the international nature of its activity.
- *Foreign and Commonwealth Office* (FCO, 2008): one of FCO international priorities is "Energy Security and Climate Change". A group working with DTI and N°10, Downing Street (N°10) has been created to tackle energy security issues. FCO also has a nuclear counter-proliferation program.
- *Health and Safety Executive* (HSE) is the independent health and safety regulator responsible for aspects of industrial safety except those relating to aviation and to railways. It is responsible for the safety of nuclear power stations via the Nuclear Safety Directorate and for security via the Office of Civil Nuclear Security (OCNS 2005). The HSE is sponsored by the Department for Work and Pensions and it reports

to parliament via a DWP Parliamentary under Secretary in the House of Lords (HSE 2008). For a fuller discussion of UK safety and environmental regulation of nuclear power see the work of Bredimas and Nuttall (Bredimas and Nuttall, 2008).

- *Ministry of Defence* (MoD, 2008): has some interests in nuclear security, i.e. terrorism resistance, radiological protection and nuclear accident response. A core principle of the MOD is that it exists to “defend the United Kingdom and its interests”. As such, the realms of energy security (access to resources and secure supply chains) and national security can intersect. Arguably such aspects have, at least in-part, motivated UK British military action either because energy resources were an underlying driver of geopolitical tension or that military needs for fuel in wartime prompted a particular campaign. It is noteworthy that most campaigns in the latter category are prompted by outside attacks on British interests rather than British initiatives to secure access to fuels. Possible examples drawn from both classes include: Iraq [1991 and 2003], The Falklands [1982] and Suez [1956] as well as campaigns during the World Wars (e.g. Iraq [1916] and Libya [1942]).
- *Department of Innovation, Universities and Skills* (DIUS, 2008) The DfES did much facilitate and encourage the creation of a wide range of Sector Skills Councils (SSCs) several of which are highly relevant to the energy industry. These developments have been led by the Sector Skills Development Agency. The SSDA, however, wound up its activities in March 2008 and was replaced by a new Alliance of Sector Skills Councils which supports the ongoing work of the SSCs, albeit under an evolving mission.
- *Department for Children, Schools and Families* (DCSF, 2008) builds upon previous work by the now defunct *Department for Education and Skills*. Energy, electricity and climate change are part of the national curriculum (Year 9, age 13+). DCSF also encourages energy efficiency inside schools.
- *Department for Communities and Local Government* (DCLG, 2008): is responsible for a broad portfolio of policy issues affecting the built environment, local democracy, community cohesion, fire protection, housing policy and the 2012 Olympics. Energy is most visible in DCLG’s remit in the area of building regulations and energy efficiency. Other concerns include domestic Energy Performance Certificates forming part of Home Information Packs, as required by the 2002 European Directive on the Energy Performance of Buildings [2002/91/EC].
- *Department for Work and Pensions* (DWP): enhances work in energy through its Ambition Programme. Ambition: Energy, is one of two main strands of the programme. Ambition Energy was developed with the gas sector to “plug skills gaps in the energy industry” (DWP, 2008a). DWP also works with BERR and DEFRA in delivering government’s policies relating to Fuel Poverty³. One particular area of DWP

³ See earlier discussion of DEFRA’s role

collaboration relates to issues of data sharing between the department and energy companies concerning vulnerable pensioners, particularly those in receipt of Pension Credit (DWP, 2008b).

- *Her Majesty's Treasury*: through the assignment of budgets and the economic instruments.

The Role of the Prime Minister

The PM works with both N°10, the ever-strengthening Office of the Prime Minister (N°10, 2008), and with the Cabinet Office, which ensures cross-departmental communication and coordination (Cabinet Office, 2008a).

- PM's Strategy Unit (PMSU)

The body led the 2002 Energy Review⁴, and more recently it worked with the DTI on the 2006 Energy Review.

"The Strategy Unit was formed in 2002 to:

- improve the Government's capacity to address long term and/or cross-cutting strategic issues
- promote innovation in policy development and the delivery of the Government's objectives" (PMSU, 2008a)

The Unit is based in the Cabinet Office and reports to the PM, who takes final decisions about the Unit's work. PMSU roles are to carry out reviews in order to provide policy advice, as well as to support institutions in developing their own strategies through the identification of new tools and audit of the Departments. Its role is to provide advice 'to' government and not to reflect the opinion 'of' government.

- Cabinet Committee on Energy and the Environment (EE)

This committee covers all the targets listed above: "to develop the Government's energy and environmental policies, to monitor the impact on sustainable development of the Government's policies, and to consider issues of climate change, security of supply and affordability of energy" (EE, 2008). The EE does not possess a public dimension as its decisions and discussions are held confidential. However, this is the place where collective issues are resolved by Ministers (Rickett, 2006).

⁴ Originally the PMSU was styled as the Performance and Innovation Unit, PIU

Besides the PM (who is the Chairman) and the Chancellor of the Exchequer, the SoS of all Departments listed above are members, as well as the Minister for Energy and the DEFRA minister responsible for climate change and the environment.

- Policy Review Working Group on Environment and Energy (PRWG(EE))

This recently established body is a Cabinet Committee chaired by the Prime Minister to complement the work of the existing ministerial committee of the cabinet on Energy and the Environment (EE). In some ways it represents a partial move towards the collaborative network structures discussed later in this paper. The PRWG(EE) committee has a membership of eleven cabinet members with three other specified post-holders having rights of attendance (Cabinet Office 2008b).

Other Organisations of Interest

- Sustainable Energy Policy Network (SEPN, 2008)

SEPN was a relatively short lived [2003-2007] cross-Departmental network which meets regularly in order to design trade-off solutions to energy issues. It is a place for synthesis of the ideas of various strategy groups and for negotiation between actors.

The 2003 White Paper defined the heart of the SEPN network. SEPN was sponsored by BERR, and collaborated mainly with the EG Strategy Unit. There are numerous members of the private sector in the advisory board as well as academic experts. However, it was only a network, a virtual set of persons; without physicality, it had neither the authority nor the institutional longevity to ensure its policy impact. Perhaps as a consequence of this SEPN was wound up following the Energy White Paper of 2007 (DTI,2007). A much stronger voice covering a similar territory is now held by the Office of Climate Change – see below.

- The Carbon Trust (CT, 2008)

The CT is an independent company mainly funded by DEFRA and focused towards UK businesses and public sector. Its objective is to reduce carbon emissions, short-term through energy efficiency and carbon management and long-term through investment in low carbon technologies. To do so, it delivers information on best practices and promotes investment in clean technologies. Its management is constituted of members coming from different perspectives including: DTI, DEFRA and the private sector.

- The Energy Saving Trust (EST, 2008a)

The EST is a non-profit organisation funded by both Government (DEFRA, DfT and BERR) and the private sector. Its goals are to promote sustainable energy use as well as cutting

CO₂ emissions. While CT is clearly aimed at both private and public sector, EST audiences are domestic consumers. Particularly, it focuses on heating efficiency and sustainable transport through advice or grants, consequently it has a local aspect.

- The *Environment Agency* (EA)

The EA is sponsored by DEFRA; it has gained authority addressing a wide range of goals concerning environmental issues, from flood defence to fisheries protection. Many topics it tackles are related to energy, e.g.: air quality and all forms of pollution (EA, 2008).

- The *Royal Commission on Environmental Pollution* (RCEP)

Established in 1970, the RCEP contributes to policy for the long-term by providing data and a factual basis for policy-making as well raising the political profile of important, but relatively neglected, environmental issues. Most recommendations are addressed to government departments, and the RCEP seeks, and occasionally demands, an official response from government. In addition a debate, such as a *Westminster Hall debate*, may occur, depending on the level of parliamentary interest (RCEP, 2008).

- The *Energy Technologies Institute* (ETI)

On 25th January 2006, the DTI announced the official launch of an "Energy Research Partnership" (ERP) as "a high-level forum of key founders of energy research and development from across the public and private sectors who are working together to give strategic direction to UK energy research, development, demonstration and deployment" (DTI, 2006c). Its main goals were to find and develop new technologies to reduce carbon emissions, improve the rate of innovation in energy and try to fill in the "skills gap" in the energy industry (ERP, 2008). In turn the Treasury announced in the 2006 budget (April 2006) that it would "set up a *National Institute for Energy Technologies* (NIET). It will build on the ERP" (EST, 2008b). The NIET has since been renamed the Energy Technologies Institute (ETI) and its organisation hub has been established in the midlands of England at Loughborough University (ETI, 2008).

- *National Nuclear Laboratory* (NNL)

The UK government has indicated an intention to create a national research and development centre for nuclear energy around the research arm of the former nationalised nuclear fuel cycle company BNFL and the UK Atomic Energy Authority. At the time of writing, however, published details of the plans remain very sparse (Parliament, 2006).

- *Office of Climate Change (OCC)*

Launched by the then DEFRA Secretary of State David Milliband in September 2006 this entity acts as a central knowledge resource and programme management centre for all of government in the area of climate change. In 2008 it is much engaged with the Climate Change Bill and the creation of an independent and initially shadow Committee on Climate Change as proposed by the Climate Change Bill.

Private actors

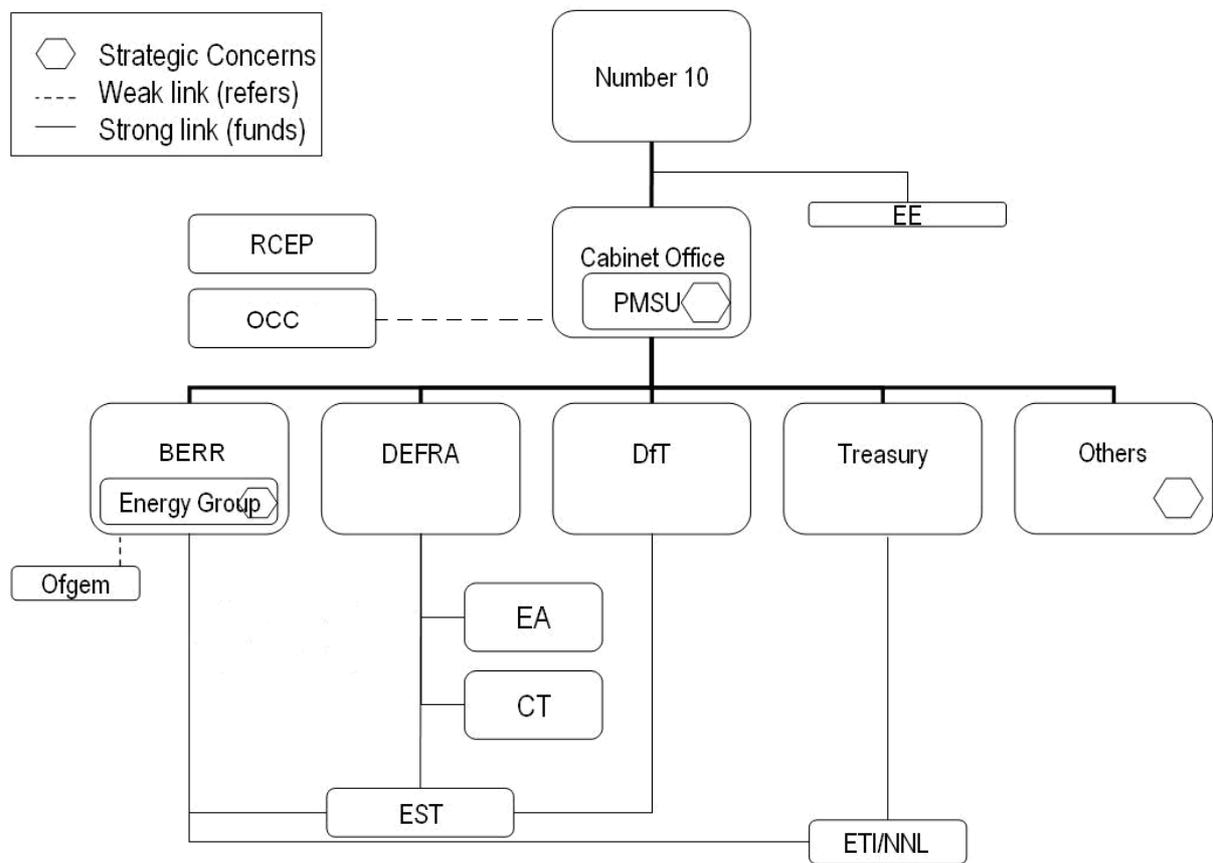
Although policy decisions have to be made at the political level, during the formulation phase, ideally the interests and expertise of all stakeholders are taken into account (Bending and Eden, 1984). The energy supply sector represents 35% of CO₂ emissions (DTI, 2006). It comprises more and more actors due to the successful introduction of competition. In order to have a broader impact, energy producers have united into various associations. Their participation in the policy process is necessary; they can bring in funds, skills and new ideas. Knowing that their trust in the institutions impacts directly on investment in new facilities these bodies are incentivised to act in a reasonable and pragmatic fashion.

As regards energy demand and end use, energy consumers may be divided into three types: public and commercial sector, industry and domestic households. Their fundamental economic interests are protected by Ofgem. British private energy consumers are represented as well by associations. The most prominent such group is Energywatch which possesses statutory functions arising from the Utilities Act 2000 to “protect and promote the interests of existing and future gas and electricity consumers in England, Scotland and Wales” (Energywatch, 2008). Initially established to assist householders, in May 2004 the remit of Energywatch expanded to include business users of energy (Energywatch, 2008a).

Universities

When it comes to research, the Research Councils and others are seeking to improve communication on matters of energy policy between universities and the Government. An important intersection between government and academia in energy occurs under the auspices of the government’s Foresight programme and in particular its horizon scanning activities (Foresight 2008). Also academic research into energy issues, both technical and social science-based, is expanding with renewed DIUS and Research Council interest in these issues.

FIGURE 2: CURRENT PUBLIC POLICY STRUCTURES FOR ENERGY IN ENGLAND (AUGUST 2008)



Existing targets: Overlaps

Figure 2 is a summary of the duties of the organisations described above. We posit that merely as a consequence of institutional positions and links the structure partly shapes the objectives and implementation of UK energy policy. One particular observation is that numerous policy objectives are dispersed and several territorial overlaps exist⁵.

⁵ As not all links have been represented in Figure 2, this description is necessarily somewhat simplified.

FIGURE 3: THE POLICY LANDSCAPE

(AUTHORS' ASSESSMENTS – CROSSES DENOTE AREAS OF POLICY RESPONSIBILITY WITH BOLD FONT INDICATING A HIGHER DEPTH OF RESPONSIBILITY)

	BERR	DEFRA	Ofgem	DfT	FCO	MoD	DIUS	DCLG	DWP	OCC	CT	EST	EA	ETI/NNL
ECONOMIC-INDUSTRIAL														
Security of Supply/ International Relations	x		x		x									
Competitive markets /Low prices	x		x							x				
Energy Mix	x		x							x	x			
Energy Efficiency (industrial)	x									x	x			
ENVIRONMENTAL														
Reducing CO2 emissions	x	x	x	x						x			x	
Nuclear and radiological safety	x					x								
World awareness of climate change/International Relations	x	x	x		x					x				
Transport sustainability				x						x			x	
RESEARCH														
Research and Development		x					x			x	x		x	x
Demonstration and Deployment										x	x		x	x
STRATEGY														
Policy goals	x				x					x				
SOCIAL														
Fuel Poverty	x	x	x					x	x			x	x	
Energy Efficiency (domestic)				x				x		x		x	x	
EDUCATION														
Skills							x		x					x
Awareness										x				
INFRASTRUCTURE SECURITY														
Counter terrorism	x			x	x	x		x						

UK METAPOLICY OPTIONS

1. INTRODUCTION

The case for continuity? An institution cannot be built without experience and skills. What's more, when an institution is created it is extremely difficult to abolish it (Stern, 2006). As a consequence, dismantling Ofgem would not be wise as it has acquired a strong economic expertise as well as having built authority over the years through its independence and professionalism.

The need for one centre of power? The separation of power between DTI/BERR and DEFRA has been pointed out as confusing and bureaucratically consuming of resources (UKOOA, 2006). This is why further multiplying the number of central members in the policy framework will not be considered here as an option.

The benefits of weaker structures? History indicates that weak institutions such as committees or councils (Ridley Committee, Energy Commission, in Helm, 2002; Bending

and Eden, 1984) might not be able to enforce tough energy policy decisions. Although a Select or Joint Committee, a Royal Commission or a Task Force could be suggested to answer our previous concerns, they do not have any decision-making or implementation power. Creating such a structure might augment expertise and reporting, but its work might not be followed by real action.

Governance and Better Metapolicies

We can distinguish three different modes of governance: competitive, cooperative, and legitimate, as described in figure 4.

FIGURE 4: CHARACTERISTICS OF BASIC COORDINATING SYSTEMS (adapted from Arentsen, 2001)

Type	Coordination Mechanism	Unit of Decision Making	Mechanism of Allocation	Authority Rules	Dominant Economic Goal	Pay-off
Legitimate	Hierarchy	Public Authority	Directive	Submission	National and Public Interest	Effectiveness
Competitive	Market	Individual	Prices	Exchange	Individual Profitability	Efficiency
Cooperative	Network	Group	Agreement	Communication	Individual Profitability and Continuity	Legitimacy

We will therefore focus on the answer to the question: how constitutionally should policy making for energy be handled in the UK? We are going to study three possible structures through the perspective of those three modes of governance and under the lens of history, experience in other utilities and in other countries.

- A **legitimizing** Department: enables strong decision-making and suits smooth goal setting
- An agency regulating a **competitive** market: ensures technical competence and suits smooth policy implementation
- A network enhancing **cooperation**: facilitates policy acceptance and suits policy evaluation

In our conclusions we shall refer briefly to recent constitutional developments in this area.

Legitimacy

The UK Offshore Operators Association (UKOOA) has called for the creation of a Department for Energy: “we do believe that leadership in energy policy needs dedicated resources and expertise concentrated in its own Government Department”. It states that

“a more efficient and coherent approach is required” and says that the management of energy policy by the then DTI, DEFRA, the Foreign Office and N°10 is “not sustainable” (UKOOA, 2006).

Professor Ian Fells has “proposed a Ministry or Department because the Minister, or more correctly the Secretary of State, would be a member of the Cabinet” (Fells, 2006).

Former Cabinet Secretary and former senior civil servant in the UK Department of Energy, Lord Wilson of Dinton is also in favour of this solution as it would increase Government involvement in energy. Such political concerns should be dealt with in the most democratic way (Wilson, 2006).

A lesson from history? The 1970s (Helm, 2002; Bending and Eden, 1984)

In the 70s, everywhere in Europe energy was considered to be better handled by regulated monopolies or nationalised firms. Therefore, the set of actors involved in the UK was much smaller than today. For instance, in electricity it included: the national monopoly of the Central Electricity Generating Board (CEGB) and the regional monopolies of the Area Boards, and only a few other players. The rise in energy prices, as well as the oil shocks increased awareness of the international dimension of energy policy. UK sensitivity to energy issues was further increased by serious coal-mine strikes in 1972 and 1974 and difficulties with the second generation of British nuclear power plants – the advanced gas-cooled reactors. As a consequence energy became central to British politics in these years.

After 1973 and the first oil crisis, this national concern for energy was echoed in the creation of the Department of Energy which emerged from a sub-section of the DTI. It had approximately 1,000 employees, a very small number compared to most other government departments (Padfield and Byrne, 1987).

The Department increased its planned investment in nuclear plants which were rendered more economically attractive by high oil prices, although this expansion never came to pass with the planned new pressurised water reactor fleet being abandoned following the completion of only one plant, at Sizewell in Suffolk. It also successfully focused on oil price consequences, especially the management of North Sea resources (Wilson, 2006).

2. Recreate a Department for Energy?

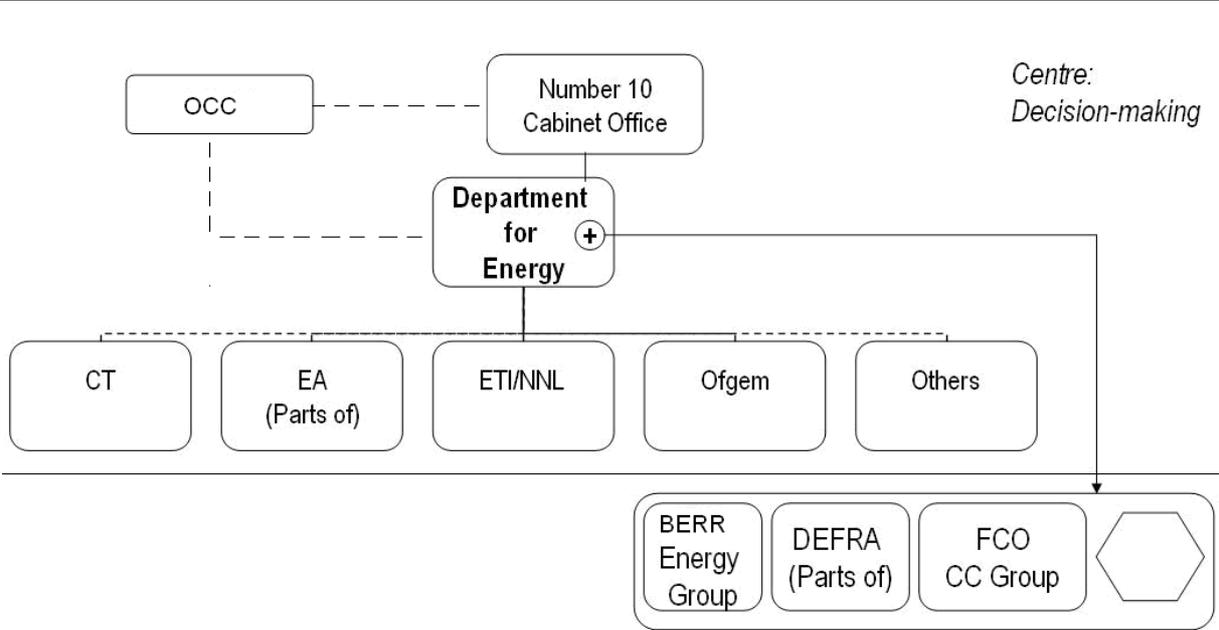
A new department could be created from the coalescence of:

- DTI EG

- DEFRA groups under the responsibility of the Director General of Environment except for Water:
 - Climate Energy and Environmental Risk
 - Environment Strategy
 - Environment Quality and Waste Groups
- FCO "Energy Security and Climate Change Group".

As befits the political head of a Whitehall Department the SoS for Energy would merit *ex-officio* a seat in the Cabinet. The creation of a new Department for Energy would bring together DEFRA's green ethos, BERR's market orientation and the FCO's international knowledge. In addition the DfE would coordinate in a simple bilateral fashion with other Whitehall departments on other energy policy goals, including defence, education and skills which are best retained within other expert departments.

FIGURE 5: A DEPARTMENT FOR ENERGY?



As previously, a hexagon denotes a strategic concern.

Disadvantages of the Energy Department Model

Building a Department increases interventionism and would arguably be a step back from the market development of the past twenty years. Governments must be re-elected less than every five years, which brings in short term political considerations and vested interests at the top of the process (Forman and Baldwin, 1999). Individual ministers move from one seat to another in reshuffles, which reduces even more their scope of

expertise. This correlation between energy policy and political day-to-day concerns could hinder good strategy-making. Although a political connection is necessary, the one established by a Department might be too strong. Such a structure was adapted in the 70s when the set of actors was smaller. Furthermore with various themes on the agenda, a Department might constitute too monolithic an approach to a multi-faceted situation (Hartley, 2003). Lastly, it is not certain that such a structure would have sufficient influence in either Whitehall or Westminster given the strong role that Ofgem already enjoys (RCEP, 2000). As stated previously the winding-up of Ofgem is not considered here. It is noteworthy that in this model several responsibilities would transfer from DEFRA to the new Department for Energy. The line delineating those aspects of DEFRA to be transferred would be hard to draw given the pervasive nature of energy issues in DEFRA's remit. Nevertheless, despite being difficult, such a task is not insuperable.

3. An Energy Agency?

Various economists have suggested for more than five years the creation of an independent energy agency (or authority). One of the strongest advocates for this reform is Professor Dieter Helm (Helm, Hepburn and Mash, 2003).

Nick Hartley also believes in the creation of an agency comparable to Sustainable Energy Ireland (Hartley, 2003; SEI, 2008).

In the current energy context, a wider regulatory approach could be a satisfying solution. Further enlarging Ofgem's (or another agency) role to include environmental, research and strategic fields could preserve the autonomy of the market and competition while more directly safeguarding the public interest.

Let us consider an example from history: the Strategic Rail Authority; the railway system provides us with a useful and relevant example of a utilities-related agency dealing with other goals than economic ones: the Strategic Rail Authority, SRA.

The SRA, a (non-departmental public body or NPBD) was established in 2001, with a large staff (over 400 in 2004). It was responsible for building and delivering a ten year plan for UK Railways. The SRA operated under directions of the SoS for Transport.

"As well as providing overall strategic direction and leadership for Britain's railway, the SRA let and manage[d] passenger franchises, develop[ed] and sponsor[ed] major

infrastructure projects, manage[d] freight grants, publishe[d] an annual Strategic Plan, and [was] responsible for some aspects of consumer protection.” (SRA, 2005)

It was associated with the Office of Rail Regulation which is responsible for competition and health and safety of British trains. The hierarchy between the bodies was not specified clearly.

Nevertheless, the agency was closed after only a short lifetime. Many of its functions have now been passed to the Rail Group, part of the Department of Transport.

“Closing the SRA has been identified as critical, since it cannot act as an industry leader, being currently positioned outside the industry. Nor can it take full responsibility for determining the Government's rail strategy, since that is a role for Ministers, who are able to take decisions in the context of their wider transport policy, and who are answerable to Parliament and the electorate. The existence of the SRA also increases the potential for inefficiency in the industry, because lines of responsibility are unclear.” (DfT, 2005)

The conclusions that can be drawn from this statement are threefold. First, building a strategic authority/agency without purging the Whitehall bureaucracy can be duplicative and inefficient. This corroborates the need of rationalisation of the institutional framework described before. Second, clearly defined responsibilities, hierarchy and roles, is crucial. The strategic agency's place in the decision-making should be clearly defined. If the territory claimed by the new Agency is too expansive, then the sponsoring Whitehall department (e.g. BERR) might enter into turf battles with the new Agency and *in-extremis* be provoked into terminating the Agency's authority. Such fears imply that, an agency, should set-out to be more process and implementation based rather than policy goals-based. Policy goals are more properly the domain of elected representatives. Third, any Agency should seek to attract the full confidence of the private sector, independent of the state of the industry's relationship with government.

It is noteworthy that the policy domain of the SRA lay almost entirely within the scope of one government department, the DfT. As such the SRA represented a significant issue for the effective functioning of the DfT within Whitehall. In the case of a Strategic Energy Agency the issues would probably be somewhat different given the current fragmentation of energy policy across Whitehall. As such any SEA would represent less of a threat to institutional business-as-usual to BERR than was the case with the SRA and the DfT.

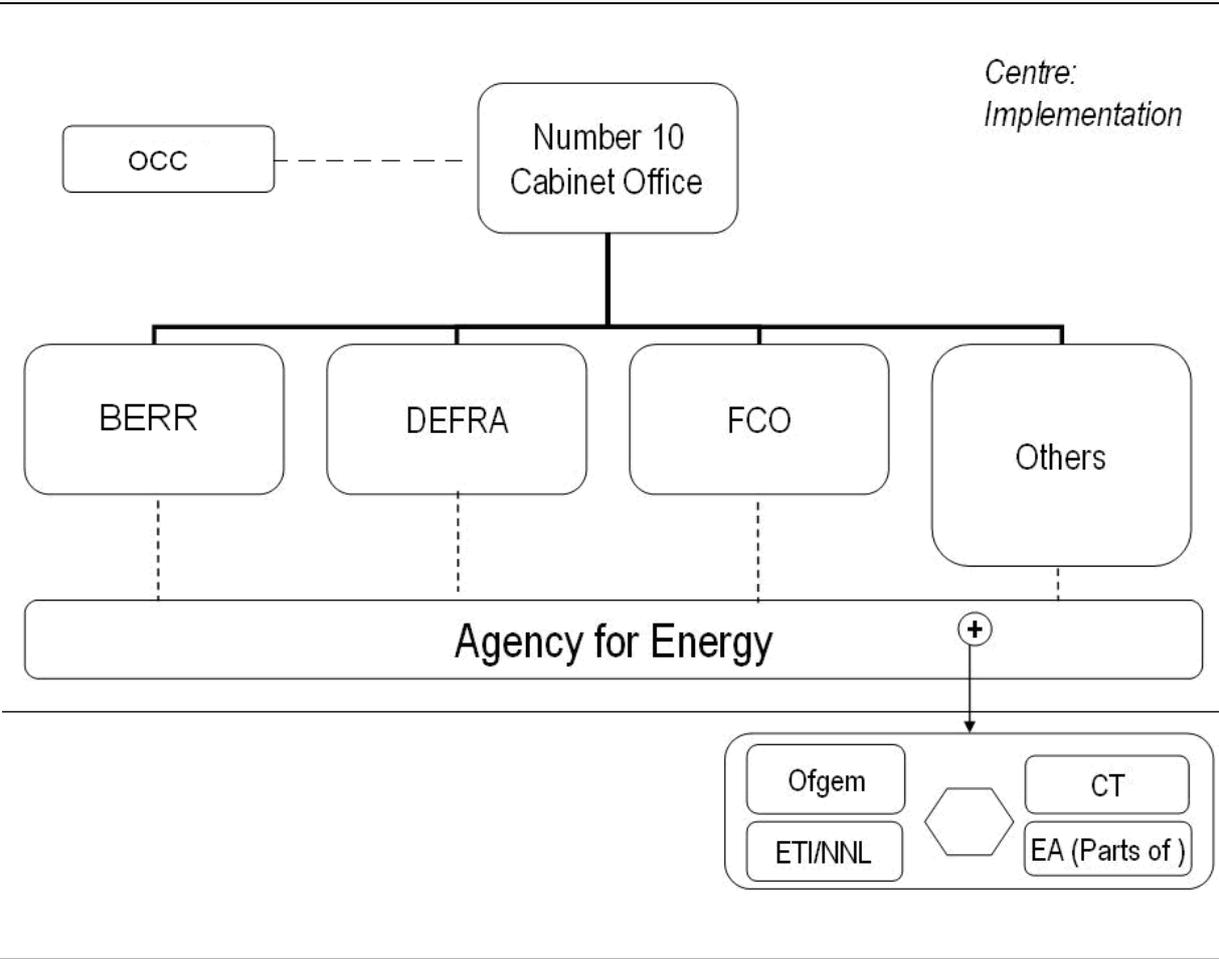
A Strategic Energy Agency is not the only model for an English Energy Authority. Dieter Helm compares carbon policy with monetary policy; an independent body, the Bank of England, has succeeded in providing a long-term framework to investors. It has also gained credibility, hence authority; the same kind of solution applied in energy could protect security of supply. Other models might include the communications regulator OfCOM and the Civil Aviation Authority. Both these institutions have multiple regulatory responsibilities within which economics is merely one consideration among many.

A possible Strategic Energy Agency could emerge from Ofgem combined with parts of EA dealing with "Air Quality". In addition it might have responsibility for ETI and NNL as well as the CT. It would report to an independent board expanding in scope and replacing the Gas and Electricity Markets Authority⁶ (which oversees Ofgem) in order to sustain independence; it would advise all Departments involved and would implement jointly chosen instruments. It would be partly funded by the private sector, as this would ensure a good communication with, and sensitivity to, energy suppliers.

"Delegation [...] reduces uncertainty and political and regulatory risk, which is typically hard to diversify, thereby reducing the cost of capital. Second, it reduces the possibility that Governments, which are driven by the next election and other short-term political economy considerations, will set carbon policy inappropriately." (Helm, Hepburn and Mash 2003)

⁶ For information on the membership and role of the Gas and Electricity Markets Authority see (GEMA, 2008)

FIGURE 6 AN ENERGY AGENCY?



Disadvantages of the Energy Agency Approach

The first drawback of this approach lies in the definition of hierarchies. Quite properly Government (answerable to Parliament) has the last word in the political process. Although the independence and authority of an independent Non-Departmental Public Body (NDPB) can be strong, as in the case of the Bank of England, if government or its departments believe that the position taken by an NDPB is too strategic (as arguably in the case of the SRA) then they can hinder the work of an agency and even abolish it⁷.

The second disadvantage concerns the scope of work. Rail policy is quite narrow despite having a national scale. Furthermore trains are not necessarily perceived of as a fundamental public need or societal right. The story of the SRA reminds us that even in a more straightforward context a strategic authority was not successful. Uniting energy policy goals in an “independent” entity with relatively low-level decision-making powers

⁷ This is different from the case of a purely economic regulator because there are potentially a wider range of more complex political issues at stake.

might not represent a sufficient benefit to outweigh the various disadvantages. Finally it is also noteworthy that passenger rail transport is typically a sector requiring subsidy and as such it differs markedly from energy where business costs are consistently less than revenues.

4. A Cooperative Approach?

Let us consider the example of energy policy making in the Netherlands. The Netherlands' metapolicy for environmental governance is renowned and has attracted international acknowledgement. Might the Dutch approach partially answer the concerns from industry articulated above by UKOOA. Furthermore might such a model sidestep difficulties akin to those faced by the SRA?

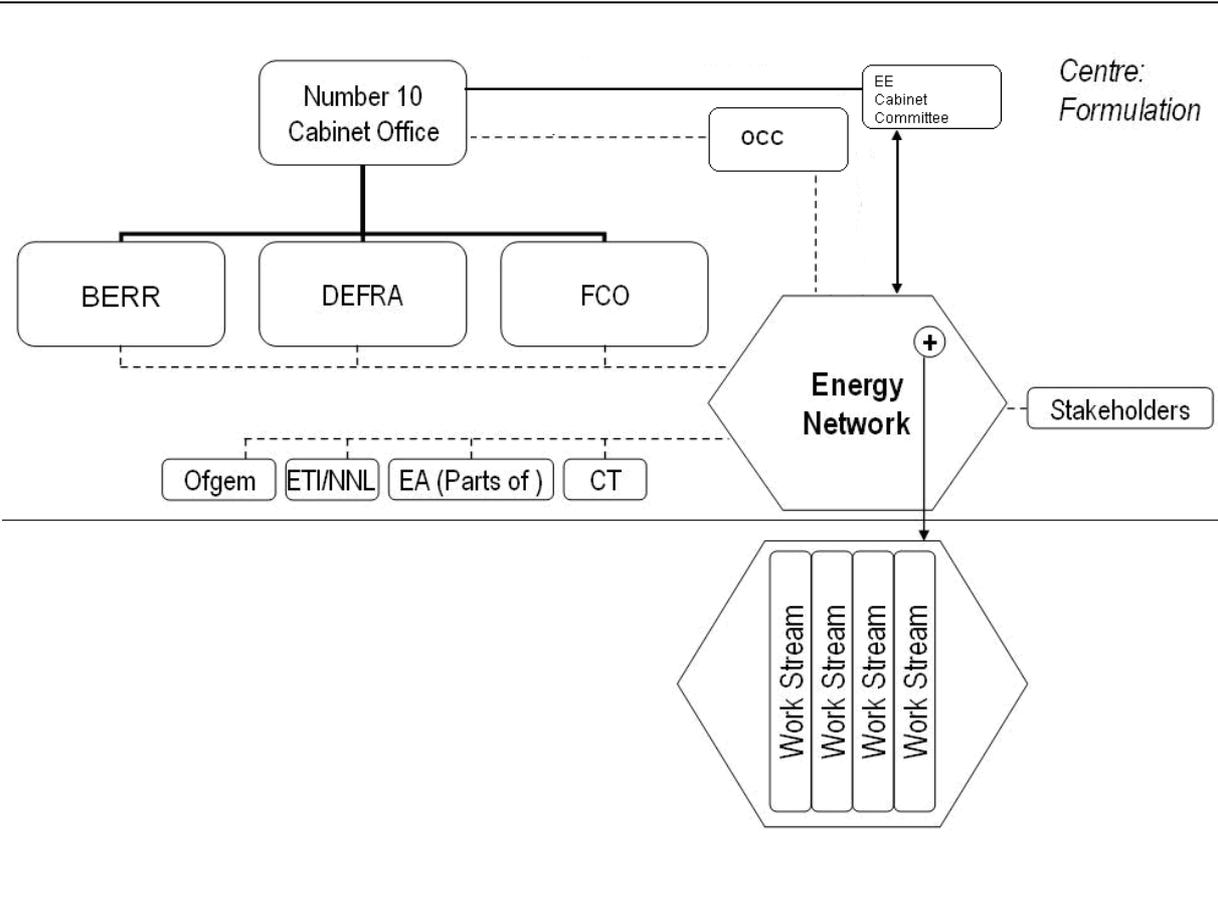
In the Netherlands, advisory boards representing different interests and private actors committing voluntarily to environmental objectives, through cooperation with public agencies, have generated high levels of national satisfaction with the governance system. Place is given to dialogue, negotiation and compromise, but if necessary regulatory decisions are enforced (Arentsen, 2001). Target groups are identified (e.g. industry) and are made responsible for progressing the strategy (Jones, Kavanagh, Moran and Norton, 2001).

Institutionally, this balance is expressed via the large number of actors involved in energy policy, including an economic regulator and an energy agency. While the Netherlands does indeed possess an Agency for Energy and the Environment, known as "Novem", we suggest that the Dutch model is nevertheless primarily an example of a cooperative approach. Pragmatically, the policy instruments used in the Netherlands are usually voluntary long-term agreements. For example, the Dutch R&D strategy has been praised as clear and coherent, the market design is considered to be adequate, and notably Dutch energy efficiency has increased significantly since 2002 (IEA, 2004).

Nonetheless, some critics have commented on the effectiveness of the Dutch arrangements. First, institutionally, the lack of definition of a hierarchy between regulators, ministries and agencies has led to weaker power levers and weaker clarity of processes (IEA, 2004). Second, the voluntary aspect yields decisions that are considered safe and which lack radicalism. In terms of CO₂ reduction, the Netherlands have been on track with the Kyoto treaty but it is notable that they have not invested heavily in new renewable generation capacity (IEA, 2004).

A physical and firmly established energy policy network could boost cooperation in policy making. If the status of the new institution would be that of an agency, as described earlier, the main difference would lie in its role, one of a negotiation facilitator, rather than regulator. Besides, as the status focuses on negotiation and not on given energy goals, this could enhance flexibility by adapting the work focus to the changing energy context. In fact, it could make “horizontal” the structures of the current strategy unit designed while “vertically” focussing on changing work streams as SEPN already does (Climate Change, Reducing UK emissions, Renewables and Security of Supply.). The members and board could be influential actors drawn from all areas, including: academia, industry, and perhaps even politics. Their collective reputation could help secure authority. Its funding could come from both Government and the private sector. Some of the board members, sitting at EE, would ensure negotiations are connected to executive power.

FIGURE 7: COOPERATION? THE DUTCH MODEL



Disadvantages of a Collaborative Approach

The main flaw of such an institution would be that its cooperative aspect arguably reduces its legitimacy and further might favour technocracy over democracy. This is not

the case in the regulatory solution where Departments controlled by elected politicians, as mentioned, always have the last word. By making the necessary link with EE, decision-making is held in the hands of non-elected specialists as such.

The second weakness lies in the decision-making process; as mentioned, it is held by non-elected actors, and the network is not at any particular hierarchical level; although EE provides a beneficial link, it is not sure whether or not reflection can be followed by action. This might weaken leadership.

The last flaw is that consultation process might seem too feeble and lead to mild answers (Hartley, 2003). Indeed, voluntary agreements essentially imply that lower standards are achieved (Dolsak, 2001) and can even sometimes result in a stalemate (Matthews, 2001).

5. Comparison of Three Metapolicy Models

We do not seek to establish an objective instrument to measure an organisation's efficiency. We tend to the view that such a metric does not even exist. Rather we note: "the actual effects of domestic institutions on the capability of the Government to impose losses (to industries), the strength of the effects, and their directions are unclear" (Dolsak, 2001). The effectiveness of institutions is very difficult to measure because a counter-factual controlled experiment (that which would have happened had the institution not existed) is impossible.

We suggest that institutional structures for government policy making can indeed play a role in shaping policy choices. The set of ideas discussed during this paper allow us perhaps to try and compare the three solutions albeit subjectively. In this spirit we allocate with some marks evaluated on the basis of the previous comments – see figure 8.

FIGURE 8: METAPOLICY ATTRIBUTE MATRIX
 (AUTHORS' ASSESSMENTS – HIGHER SCORES INDICATE GREATER POLICY-MAKING EFFECTIVENESS)

	Department	Agency	Network
Alignment of objectives	5	4	3
Leadership	4	2	3
Clarity for the stakeholders	5	3	0
Cultural diversity	2	3	5
Democratic process	5	3	0
Expertise	4	4	5
Flexibility	2	3	1
Long life-expectancy	3	4	4
Rapidity	3	4	2
Transparency	1	2	5

If equal weight was given to each quality, a Department would be the best option. However, an average mark does not provide a definite answer. Stakeholders from industry, for instance, might place a premium on leadership, clarity and policy expertise and hence favour a Department for Energy. Consumers, however, might legitimately distrust greater technocracy and shorter power distances and hence favour weaker structures such as cooperation.

6. CONCLUSIONS

In the current situation in England, the actors involved in energy policy-making possess wide objectives and are constrained by their sectoral cultures and professional disciplines. The complexity of the issues has led to a series of objectives for institutions which might not have the appropriate expertise to answer them. A first natural step is to separate transport, social, educational and defense goals from the core of this study. They can make a coherent whole by themselves within appropriate agencies and/or Departments. The core entanglement is between economic-industrial, environmental and research domains in energy.

Our study of English energy metapolicy has highlighted the needs for three major changes: rationalisation of the current institutional framework, addition of further

strategic concerns to it, and specification of where the centre should be, in decision, implementation, or negotiation.

This last concern has led to consideration of three new metapolicies, differing in the position of the key policy centre of power and the length and breadth of power distances from the Cabinet. In the case of a putative Department for Energy this would have the highest position immediately under the Cabinet; the case of an agency would provide greater insulation from day-to-day politics. The case of a collaborative network, theoretically sits entirely outside the Whitehall hierarchy but this would come at the price of reduced democratic (parliamentary) oversight. In the absence of objective measurements for the efficacies of institutions, the final conclusion boils down to a political question (fundamentally between interventionism and liberalism); it is therefore impossible to give a "scientific" metapolicy answer to what is itself a highly political question. We note the advice of Lord Wilson of Dinton – that as long as the heart of the answer is political, leaving as much power as possible to elected representatives is a wise move (Wilson, 2006).

A MODEST RECOMMENDATION

Clearly energy is both crucial to national prosperity and is a matter of political significance. A strong, but limited change could be implemented by Government as an interim measure before the politics of energy in the early twenty-first century is more concretely formed. That is before waiting for the building of new contexts and the appreciation of appropriate new institutions. We suggest that the PM should appoint to the Cabinet the Minister of State for Energy. Appointing someone from the energy field would raise the political profile of energy at the centre. The Minister of State for Energy is the best representative in terms of scope of experience, by being the head of Energy Group within BERR, and he is already focused on strategy. The proposed extra cabinet rank minister would continue to be based within BERR and be answerable to the Secretary of State for Enterprise and Regulatory Reform. It is noteworthy that in August 2008 the Cabinet has three members drawn from the Treasury excluding the Prime Minister. This and other examples make clear that there is no constitutional obstacle to a given Department having more than one representative in the Cabinet. Given the importance of energy at the present time we suggest that such a promotion of the Energy Minister to the cabinet should be merely part of an ongoing process of strengthening Whitehall capacity on this most important of topics.

ACKNOWLEDGEMENTS

This paper was informed by a series of private communications and interviews undertaken in the first half of 2006. We are most grateful to the following experts for their comments and insights:

Cope D. – Parliamentary Office of Science and Technology Director

Fells, I. – former energy adviser to the European Commission and the World Energy Council, Fells Associates

Hartley N. – former head of the PIU Energy Review, Oxera Consulting Ltd.

Jamasb T. - Cambridge University, Faculty of Economics

Littlechild, S. – Judge Business School, Cambridge University, former member of the Monopolies and Mergers Commission and Director General of Electricity Supply, member of Ofgem's economic advisory panel

Odling D. –UKOOA, Redactor of the answer to the 2006 Energy Review

Reiner, D. - Cambridge University, MPhil in Technology Policy Lecturer

Rickett, W. – DTI, Director General Energy

Roques, F. – IEA, Economic Analysis Division

Skea J. - Research Director, UK Energy Research Centre

Stern, J. – City University London, Centre for Competition and Regulatory Policy

Wilson of Dinton, Lord R. – former member of the Department for Energy, Permanent Secretary of the Department of the Environment, Permanent Under Secretary of the Home Office, Secretary of the Cabinet and Head of the Home Civil Service, Master of Emmanuel College, Cambridge

All views and opinions expressed in this paper are those of the authors alone and do not necessarily reflect the opinions of those we have communicated, except where specifically indicated. We are most grateful to the ESRC Electricity Policy Research Group for its award Towards a Sustainable Energy Economy which has provided a strong framework for this work at Cambridge University.

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