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## Environmental governance and the dispersal of decision-making

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## Abstract

Currently the European Union (EU) consists of a group of nation states that exhibit an array of constitutional systems, ranging from the unitary to the fully federal. Among the EU member states, the United Kingdom (UK) has traditionally been regarded as an example *par excellence* of a unitary state. However, since taking office in the late 1990s, Labour Governments have pursued a programme of constitutional reform. This has included the decentralisation of decision-making powers through a process of devolution to bodies in Scotland, Wales, Northern Ireland and the English Regions. One policy area that has been devolved as part of this process is environment policy. However, it could be argued that even before the formal 1998 Acts of devolution that environmental policy was already highly decentralised. Crucially though, one policy area that has been 'reserved' to the UK Executive in Whitehall and the Parliament in Westminster is international relations and EU matters, and UK environmental policy is one policy area that is deeply affected by EU level policy making. These circumstances, therefore, raise some important questions about British environmental governance, which this paper seeks to address. Crucially, what are the likely or potential implications of devolving environmental policy, whilst at the same time reserving EU relations to London (Whitehall and Westminster)? In reflecting on these issues, this paper draws on theories and concepts derived from governance and historical institutionalist literature.

**Key words:** Governance; UK policy making; devolution; European Union; environmental policy.

## 1. Introduction

A review of the development of British<sup>1</sup> environmental policy since 1945 reveals a number of incongruous trends, including those towards integration and fragmentation. Efforts at integration by United Kingdom (UK) governments have included the creation of 'super-ministries' such the Department of the Environment (DoE) in 1970 and the Department of the Environment, Transport and the Regions (DETR), which superseded it in 1997. The establishment of the Environment Agency in 1996 and recent efforts at 'joined-up government', such as the 'Green Ministers Network', may also be regarded as examples of the UK's Government's attempts at consolidation. However, more striking than the efforts at integration, it could be argued, is the long standing and widespread pattern of dispersal in British environmental policy making, as the core executive<sup>2</sup> has either unwittingly relinquished or deliberately transferred powers, competences, and authority away from the centre to an extensive array of actors in various locations and political centres. At the national level, decision making powers over British environmental issues have long been scattered among a number of governmental actors including *inter alia* several central government departments, Cabinet committees, executive agencies, executive and advisory non-departmental public bodies and tribunals. Authority for environmental decision making has also been dispersed downwards to the sub-national level, requiring local authorities and a variety of agencies to shoulder responsibility for the delivery of environmental protection measures, in matters such as waste management, planning and transport. Environmental decision making competence has also shifted upwards to the supranational level, to the European Union (EU) and other international bodies. Finally, non-governmental organisations, in fields such as nature conservation and land use planning, operating at local, regional, national and supranational levels have also secured a significant role in the development and implementation of UK environmental policy. To this established pattern of decentralisation of environmental decision making powers can be added recent constitutional reforms<sup>3</sup> undertaken by the Labour Government in the UK following the 1997 General Election victory: namely, devolution.

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<sup>1</sup> Technically the term Great Britain refers to the union between England, Wales and Scotland. The addition of Northern Ireland creates the United Kingdom of Great Britain and Northern Ireland (i.e. the UK).

<sup>2</sup> The term 'core executive' may be defined as the Cabinet, including the Prime Minister, Cabinet Committees, the Cabinet Office, the Prime Minister's Office, parts of the Treasury, the major government law offices and those central elements engaged in managing the party's parliamentary support base (Holliday 2000, 89).

<sup>3</sup> It is important to note that the constitutional reforms introduced by the Labour Government since 1997 were motivated by a variety of reasons, none of which were explicitly associated with environmental protection objectives.

Two characteristic features of the process of devolution in the UK are particularly noteworthy. First, that it is asymmetrical. The Scottish Parliament/ Executive (SP/SE), National Assembly for Wales (NAW) and English Regional Development Agencies (RDAs) have been allocated different types and degrees of power by the UK Government. Second, and perhaps more significantly, not all areas of policy making have been devolved. Whilst authority over environmental policy has been dispersed formally to the devolved bodies, a number of powers have been retained by the UK legislature in Westminster and the Executive in Whitehall. Crucially, the 'reserved matters' include relations with the EU. This is especially critical given that the EU plays a major role in national environmental policy making. There are, therefore, a number of potential outcomes resulting from the way in which devolution in the UK has been devised and constructed. Given that environmental policy is one of the devolved policy areas, the devolved bodies may want (and indeed be able) to develop environmental policy with a distinctive local, regional or 'national' (e.g. Welsh or Scottish) character. However, these territorial entities are not members of the EU in their own right and the Westminster-Whitehall axis retains the right to negotiate at the EU level on behalf of the English, Welsh, Scots and Northern Irish. In effect, this may prevent the devolved bodies from establishing their own emblematic environment policy as the UK government's core executive or lead environmental department in Whitehall (i.e. DEFRA) act to shape "UK" environmental policy in the EU's Council of Ministers. This gives rise to two further potential outcomes. The devolved bodies may well feel compelled to establish strong direct relations with EU level policy makers in the Commission and elsewhere. It may also lead to conflict between Westminster/ Whitehall and the devolved bodies. Given these circumstances future development of the UK's environmental policy may exhibit some path dependent features and some unintended outcomes.

The impact of devolution on British environmental policy is, therefore, likely to prove to be an interesting case study. Among the other reasons for examining it are the following. Firstly, it is timely to consider the impact of devolution. Despite earlier abortive attempts in the 1960s and 1970s, it was a process that commenced formally with regard to Scotland, Wales and the English Regions in the late 1990s<sup>4</sup>. Whilst it may be too early, as yet, to draw any firm conclusions about the implications and effects of devolution, it provides an interesting 'live experiment' and a chance to speculate about the future trajectory of environmental politics and policy in the UK. It also offers an excellent opportunity to test theory such as historical institutionalism and to engage in the debate about

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<sup>4</sup> Although devolution to Northern Ireland pre-dates this period, it has a chequered history and is deliberately excluded from this study. The English Regions are only mentioned in passing in this paper. Wales and Scotland provide the main focus.

the concepts such as 'governance'. Moreover, it is an area of academic research that is relatively underdeveloped. Whilst it is evident that a number of scholars have begun to examine investigate devolution in the UK, little work has been completed that has specifically considered the impact of devolution on environmental policy (but see for example, Little 2000). It could, therefore, potentially yield excellent comparative data, so that future research could contrast the impact of devolution in the UK with other countries with devolved administrations such as Canada and Australia, and other EU member states where similar processes of decentralisation have occurred. Equally, it could provide suitable material for cross-sectoral studies (about the impact of devolution), allowing comparisons to be made between environmental policy and other devolved policy areas such as education, health, or agriculture.

This paper, therefore, explores the impact of devolution on UK environmental policy and considers whether it is part of a broader political trend away from 'government' to 'governance'. It surveys the changing formal role of, and relations between, UK Government and other actors at various levels of decision making. This paper also reflects on the theoretical implications of dispersed environmental decision-making powers by considering ideas and approaches drawn from governance and historical institutionalist literature. Consequently, the remainder of the paper proceeds as follows. Section 2 draws on theory and concepts offered by governance and historical institutionalist literature. In the subsequent section the development of British environmental governance is traced. Section 4 examines devolution in the UK, highlighting the formal changes to environmental governance. The final section considers the possible trajectory for British (and UK) environmental governance and points to the next steps with regard to research on the topic.

## 2. Governance

Since this paper is fundamentally concerned with examining whether there has been a trend away from 'government' to 'governance' in British policy making, including environmental policy making, the first concept that is reviewed is governance. The term emerged about a decade ago in political science discourse, becoming widely used among academics and policy makers alike. In addition, commercial and economic entities such as World Bank have also adopted the term, in common with those academic disciplines that focus on such organisations, namely management science and development economics. The term governance has increasingly been employed as a replacement for the term government<sup>5</sup>, although the two words are not considered to be synonymous (Hirst 2000, 13; Rhodes 1997; Rhodes 2000, 54). Despite, or perhaps owing to its growing popularity, the term governance is a contested one. Diverse definitions and usages abound. Even a relatively limited survey reveals quite a wide range of meanings and definitions.

Examining recent usage, we find that recently Rod Rhodes (1997, 46-57) noted six possible applications for the term governance. Other authors have compiled similar lists (Hirst 2000, 14-19). Rhodes later expanded his list to include seven interpretations (Rhodes 2000, 55 – 63). These use the term 'governance' in the context of: corporate governance; New Public Management; 'good governance'; international interdependence; a socio-cybernetic system; the new political economy; and networks. Crucially, for Rhodes, the notion of governance

“...blurs the distinction between state and civil society. The state becomes a collection of interorganizational networks made up of governmental and societal actors with no sovereign actor to steer or regulate. A key challenge for government is to enable these networks and seek out new forms of co-operation.” (1997, 57)

By contrast, for Jon Pierre, 'governance' has two meanings. It refers to the

"...empirical manifestations of state adaptation to its external environment as it emerges in the late twentieth century [and it also] denotes a conceptual or theoretical representation of co-ordination of social systems and, for the most part, the role of the state in that process." (Pierre 2000, 3)

The term 'governance' can, therefore, be used to refer to a policy making process in which government and other actors play a role. Both Rhodes' and Pierre's treatment tends to single out the role of government, suggesting that it may play a co-ordinating or steering role, and in that respect may be the dominant player. Jon Pierre notes that

"Governance theorists see the role of government in governance as a contextual phenomenon; the pursuit of the collective interest takes different forms in different political and institutional contexts and governments can be either the key, co-ordinating actor or one of several powerful players in that process." (Pierre 2000, 241)

### 2.1 Applying governance: researching public policy

Adopting a definition of 'governance' that treats public policy making as an activity engaged in by both government and other actors, we can use the concept to analyse public policy or decision making, including environmental policy. Making strong claims for the value of governance theory, Jon Pierre argues that it

"...has tremendous potential in opening up alternative ways of looking at political institutions, domestic-global linkages, transnational co-operation, and different forms of public-private exchange." (Pierre 2000, 241)

In particular it can help us focus on the role played by government, in contrast to other actors, in public policy decision making. As Pierre goes on to say

"The role of the state in governance is perhaps the most important issue in governance research, given the historical predominance of the state as the undisputed carrier of the collective interest [...] As long as this remains the case, the issue of how the state transforms to accommodate emerging forms of governance remains a key issue in governance research" (Pierre 2000, 242)

Rhodes seems to adopt a similar stance. He suggests that

"As a narrative of British government, governance has two advantages. First, it identifies and focuses on key changes in government; for example, the failures of marketization and the unintended consequences of differentiation. Second, it poses distinctive, new questions about government; for example, about reshaping the state and the pluralization of policy making." (Rhodes 2000, 84)

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<sup>5</sup> The term 'government' is generally used to refer to the exercise of control and influence through law and coercion over a particular group of people formed into a state. The term 'state' is therefore wider than government, embracing an array of institutions beyond those responsible for policy making and administration such as government departments.

Following these leads, this paper considers the role of government in relation to other actors in the sphere of environmental policy making in the UK.

## 2.2 Governance and the UK

A number of scholars have attempted to apply the idea of governance in their work. Writing last year, Richards and Smith (2002), for example, examine the notion of governance and trace the development of public policy making in the UK over a fifty-year period (c.1950 to 2000). They identify three distinct eras. In the first, which they label an 'era of government', governing could be seen to be a relatively straightforward exercise in which policy making was a top-down process dominated by central government in a relatively uncluttered political arena. By contrast, they contend, the 1990s ushered in an 'era of governance' in which central government found itself to be only one of many actors involved in a policy making process that was characterised by fragmentation and disaggregation. As a response to this trend, and in an effort to recapture some degree of control, in the early years of the new century the UK Government began to introduce new structures and procedures. Accordingly, the UK polity had entered what Richards and Smith call an 'era of joined up government' (Richards and Smith 2002, 3-6).

Therefore, the general pattern identified by Richards and Smith, is a movement away from 'government' towards 'governance'. They broadly agree with Rhodes' assessment that as result of the changes outlined above (Rhodes 1997; Richards and Smith 2002) that the Westminster Model, which for many years has served as the basic model for academics studying the British polity, no longer provides an "adequate organizing perspective on the British political system" (Richards and Smith 2002, 275). However, they depart from Rhodes' view that the UK has come to resemble what Rhodes labels the "Differentiated Polity Model" (Rhodes 1997, 7-19) characterised by: governance rather than government; power dependence and thus exchange relationships between actors; policy networks (made up of government and other actors at different levels/in different centres); a segmented executive; intergovernmental relations; and a hollowed out state. In response, Richards and Smith posit an alternative framework and argue that the UK more closely resembles what they call an "Asymmetrical Power Model" (March, Richards and Smith 2001, 247; Richards and Smith 2002, 285). They contend that the changes to the British polity are more modest than those suggested by Rhodes. Whilst they agree that British politics involves exchange relationships and power relations that rarely amount to a zero-sum game, they are less convinced that the power of the core executive has been seriously weakened or that the British state has been hollowed out (Marsh, Richards and Smith 2001, 250).

## 2.3 British environmental policy making

Whether, indeed, British environmental policy making is a matter of 'government' or 'governance' may depend, in part, on how the term environmental policy itself is defined. A number of authors appear to treat environmental policy making as government based activity. For example, one leading author defines environmental policy<sup>6</sup> as

"...public policy concerned with governing the relationship between people and their natural environment" (McCormick 1991, 7).

This definition is striking because the underlying definition of 'public policy' used is confined to the "actions of government" (*ibid.* 7). There appears to be no place for other actors to play a role. Another similarly state-centric view suggests that British environmental policy comprises

"...*government structures* and law relating to environmental protection [that] have been (and largely remain) an accretion of common law, statutes, agencies, procedures and policies. There is no environmental policy other than the sum of these individual elements, most of which have been pragmatic and incremental responses to specific problems and the evolution of scientific knowledge." (Lowe and Flynn 1989, 256. Emphasis added)

Some scholars even argue that Britain does not have, or did not have until very recently, a 'policy' on the environment, in the sense of a clearly laid-out and consistent plan integrated across a whole range of government activities (Garner 2000, 152).

Notwithstanding this problem, by adopting a broader definition than the ones presented above and employing the notion of governance, we can define environmental policy as the policy that results from the participation of a range of governmental and other actors in the policy making process (i.e. governance), which represent one (or more) of the following territorially defined areas: the local, the regional, the national or international. The term 'policy' includes *inter alia* statute, common law, guidance notes, working practices and procedures, policy statements that are developed or evolve in an effort to protect the both the natural and built environment. Research into environmental governance, of the type undertaken for this paper, explores the relationships between the various actors in that policy making process. Notice that to satisfy this definition, actors need only to participate; actual influence is not required. It should be recalled

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<sup>6</sup> The 'built environment' is excluded from this definition.

that participation and influence cannot be assumed to be synonymous (Jeffery 2000, 3).

Where earlier texts have applied the concept of governance to policy research, it is clear that there can be overlap with another area of theory: namely historical institutionalism. For example, in applying the idea of governance to economic matters, Andrew Gamble brings out the importance of institutions in both a formal and informal sense, which corresponds with the use of the term institutions in HI literature.

"Governance denotes the steering capacities of a political system, the ways in which government is carried out, without making any assumption as to which institution or agents do the steering. For any social order like the economy, governance needs to be understood at two levels. First, there are the basic laws, rules, standards, and principles which provide the constitutional framework for governing. Many of these will not be formalized, but are implicit in the process of governing. Second, there are the techniques, tools, practices, and ethos of governing, associated with particular institutions and agents. The state is always involved in governance, but often in enabling rather than a directing role, helping to establish and sustain the institutions in society, including crucially markets, which make steering possible." (Gamble 2000, 110-111)

Following from these points, the paper now explores some key ideas taken from historical institutionalist literature.

### 3. Historical Institutionalism and Path Dependency

New institutionalism, of which historical institutionalism (HI) is one branch, forms part of the 'rediscovery' of institutions, which has opened up a new research agenda in comparative politics and comparative political economy (Steinmo and Thelen 1992, 1). It draws on older traditions of economics, political science and sociology and follows from a renewed interest in institutions that first emerged in the 1950s and 1960s as part of a 'behavioural revolution' among scholars in the USA. Those academics rejected the 'old institutionalism', which had been mainly (though not exclusively) concerned with detailed studies of different administrative, legal, and political structures and was often deeply normative. They rejected the old institutionalism on the grounds that formal laws, rules, administrative structures did not explain actual political behaviour or policy outcomes. They argued that it was necessary to examine informal distributions of power, attitudes, and political behaviour as well (Steinmo and Thelen 1992, 3-4; Stoker 2000, 92).

The so-called behavioural revolution spawned two separate institutionalist critiques: one of which is HI. The HI literature itself is diverse but among its scholars there is a shared interest in 'historical contingency' and 'path dependency'. HI scholars assume that politics and policy making are affected by the institutional setting in which they take place (Steinmo and Thelen 1992, 2). HI places significance on both formal organisations and informal rules and procedures. It is historical in the sense that it recognises that political development is a process that unfolds over time. It is institutional in the sense that policy processes are seen to be embedded in institutions. For most historical institutionalists, institutions (both governmental and other) constrain and refract politics although they are never the sole cause of political outcomes. In other words, institutions shape both the strategies and goals of political actors and their relations to one another (Steinmo and Thelen 1992, 2).

One of the strong themes to emerge from some HI literature is the idea of unintended consequences (Pierson 1998). Applying HI to the study of the EU, for example, Pierson comments that

"The crucial claim I derive from historical institutionalism is that actors may be in a strong initial position, seek to maximize their interests, and nevertheless carry out institutional and policy reforms that fundamentally transform their own positions (or those of their successors) in ways that are unanticipated and/or undesired. (Pierson 1998, 30)

Pierson (1998, 34-43) offers four explanations for unexpected and undesired (at least for their creators) outcomes generated (by European integration). First,

state executives normally have very short time horizons: politicians are under electoral pressure to agree to policies with short-term pay-offs even when there is the possibility of long-term costs, unintended consequences and a loss of control. Second, state preferences are not fixed: when looked at historically, states change their preferences as a direct result of their continuous involvement in the process of (EU) policy making. Third, supranational policy making is complex: state executives find it difficult to anticipate the long-term consequences of delegating authority to the EU. Finally, supranational actors are partially autonomous of states: they look for opportunities to extend their power and autonomy by exploiting gaps in state control. Pierson (1998, 43-50) also explains why states find it so difficult to regain control of policies when they take on a life of their own. For example, supranational agents such as the Commission move to block states from disavowing their commitments.

Parallel conditions might well arise in the case of devolution in the UK. Politicians currently in power have begun a process of devolution but they may no longer be in office when the consequences become apparent, and they may neither care about nor be able to predict future developments. The political preferences of the political leaders may, in any case, alter over time. Finally, the devolved bodies may well seek opportunities to extend their power and autonomy by exploiting gaps in UK Government control. So, whilst the UK Government and the devolved authorities have reached and signed agreements (see below) that condition their interaction and relations in a formal sense, it is entirely possible that with the passage of time the institutional arrangements could evolve differently, so that the policy making process that actually emerges differs from what was agreed. Devolution might well lead to unintended consequences in terms of UK policy and policymaking in the future, including environmental policy.

HI literature also emphasises the idea of ‘path dependency’ and ‘increasing returns’ (Pierson 2000; North 1990) and argues that future institutional arrangements are likely to closely resemble those of the past. According to the literature, political processes are path dependent: timing and sequence of events matter; a wide range of social outcomes may be possible; large consequences may result from relatively small or contingent events; a particular course of action, once introduced can be relatively impossible to reverse. Consequently, political development is punctuated by critical moments or junctures that shape the basic contours of social and political life (Pierson 2000, 251). Exploiting these ideas, the question that arises and is central to this paper is to what extent is British environmental governance path dependent? Does devolution represent a ‘critical juncture’ in its development? The paper now turns to a review of the past development and current state of British environmental policy making.

## 4. British Environmental Governance

### 4.1 Background

Given the definition of environmental governance set out above, this section of the paper charts the emergence of governmental and other actors, highlighting the period from about 1970 to 2000. A longer-term perspective reveals that in Britain, both governmental and other actors have had a long-standing involvement in environmental issues. One account (McCormick 1991, 9) records that as early as the 13<sup>th</sup> century (in 1273) the first environmental regulation was created when Edward 1 issued a decree to prohibit the burning of sea coal. However, much of what would probably be recognised as environmental policy really began to emerge in the 19<sup>th</sup> century. For example, one of the first environmental measures to become statute was the Smoke Nuisance Abatement (Metropolis) Act, passed in 1853. In 1863, what might be regarded as the first regulatory agency was created: the Alkali Inspectorate was established. Similarly, some non-governmental environmental actors have been active for more than a century. For example, the Royal Society for the Protection of Birds originated in 1889 and the Royal Society for the Prevention of Cruelty to Animals in 1824, although some leading non-governmental organisations (NGOs) did not emerge until the 20<sup>th</sup> century: for example, the network of local Wildlife Trusts were established in 1912 and the Council for the Protection of Rural England in 1926. See Figure 1 for a chronology of the emergence of governmental environmental policy actors.

Over the course of the 20<sup>th</sup> century, despite some experiments with integration and an associated reduction in the number of actors, in general there appears to have been an expansion in the number of those involved in British environmental policy, arguably leading to greater fragmentation of environmental decision making (McCormick 1991, 13; Lowe and Ward 1998, 7), drawing in an increasing number of governmental and other actors at different levels or centres of decision making. For example, even before the devolution process was initiated, the territorial offices that formed part of the UK government’s central machinery, the Scottish Office and the Welsh Office, each played a concrete role in environmental policy making (Bogdanor 1999, 111 and 160). In addition, in some areas of UK environmental policy making, powers had been decentralised to some quasi-government agencies. The 1990 Environmental Protection Act split the National Conservancy Council’s (NCC’s) functions into separate country agencies for England, Scotland and Wales. English Nature became responsible for nature conservation matters in England. In Scotland the NCC and the Countryside Commission (CC) were combined to establish Scottish National Heritage (SNH), and in Wales the NCC and the CC are combined to form the Countryside Commission for Wales (CCW) (Dixon 1998, 216-217).



**Figure 1: Selected UK governmental environmental institutions**

- 1919** Forestry Commission set up – responsible to MAFF (and Welsh assembly and Scottish Executive Post devolution).
- 1969** Royal Commission on Environmental Protection (RCEP) established.
- 1970** Department of the Environment (DoE) created by merging Ministries of Housing and Local Government, Public Buildings and Works, and Transport.
- 1976** Transport separated from DoE.
- 1987** Her Majesty's Inspectorate of Pollution (HMIP) formed by combining the inspectorates in industrial air pollution, radiochemical, hazardous waste and water pollution.
- 1989** National Rivers Authority (NRA) replaced the 10 regional water authorities following privatization of the water industry under the Water Act of 1989.
- 1990** Environmental Protection Act creates English Nature in England. In Scotland the NCC and the Countryside Commission (CC) are combined to establish Scottish National Heritage (SNH), and in Wales the NCC and the CC are combined to form the Countryside Commission for Wales (CCW).
- 1992** Department of Energy abolished – environmental functions going to DoE.
- 1994** UK's Sustainable Development Strategy launched and UK Panel on Sustainable Development created.
- 1995** The UK Round Table on Sustainable Development begins work.
- 1996** Environment Agency formally established combining HMIP, the NRA and WRA's (Waste Regulation Authorities).
- 1997** DoE is reorganised to include Department of Transport and renamed Department of the Environment, Transport and the Regions (DETR) 'Network of Green Ministers' (part of the 'Greening Government-UK' initiative) and Sustainable Development Unit established to support the new Cabinet Committee on the Environment.
- 1999** Countryside Commission formed which combines the Countryside Commission (originally formed in 1949) and the Rural Development Commission.

cont/.....

**Figure 1 ...../cont**

- 2000** UK Panel on Sustainable Development and UK Round Table on Sustainable Development superseded by a new advisory body, the Sustainable Development Commission.
- 2001** The Ministry of Agriculture, Fisheries and Food (MAFF) is renamed the Department of the Environment, Food and Rural Affairs (DEFRA) and takes over environmental responsibilities formerly exercised by the Department of the Environment, Transport and the Regions (DETR). Department of Transport, Local Government and the Regions also created (DTLR).
- 2002** DTLR functions split to create Department of Transport and the Office of the Deputy Prime Minister (with responsibilities for local government and the regions).

Part of the overall growth in the number of actors involved in UK/British environmental policy, which may amount to a greater dispersal of environmental decision making, can be explained by events such as the UK's membership of the EU in the early 1970s. Although there had been an important wider international dimension to British environmental policy previously (Lowe and Ward 1998, 9-11), membership of the EU in 1973 permitted the involvement of the European Commission, European Parliament and other supranational institutions in British environmental policy making, adding to the array of supranational 'government' actors involved and resulting in the 'Europeanisation' of UK environmental policy content, styles and structures (Jordan 2002). Paradoxically, the addition of the supranational dimension may also have had a simultaneous centralising effect on the UK's environmental policy making. Taking part in EU policy making has demanded that the UK presents a co-ordinated policy line, whereas prior to EU membership the UK had a strong tradition of organising and implementing environmental policy on a local basis, only broadly overseen by central government (Lowe and Ward 1998, 7-8).

In due course, environmental decision making at the EU level has encouraged the establishment of European or Brussels based-environmental NGOs. In the process of actively seeking to influence UK and EU policy making, these NGOs augmented the number and range of other actors already participating in British environmental policymaking (Fairbrass and Jordan 2002). Such changes in interest representation at the EU level had been preceded by the somewhat uneven rise of environmental groups at both the national and international

levels, a trend that had begun during the early part of the 20<sup>th</sup> century. With the emergence of ‘environmentalism’ on national and international political agendas in the 1970s, environmental groups such as Friends of the Earth and Greenpeace became established, vocal actors.

In the two decades that followed, changes introduced under Conservative Governments created new and additional domestic structures with authority over environmental matters, as part of their effort to ‘roll back the frontiers of the state’. These changes included the creation of quasi-government, in the form of executive agencies and executive non-departmental public bodies. Moreover, with the ‘greening’ of the UK government, which can be traced to the late 1980s, came the setting up of new environmental units in departments that would normally be opposed to ‘green’ initiatives (Jordan 2000). Finally, part of the proliferation in the number of both government and other actors involved in British environmental governance has occurred because of the widening of the agenda from the environment to sustainability or sustainable development, with its economic, social, and political dimensions (Jordan 2000; Flynn 2001).

#### 4.2 Current institutional arrangements: national level

As the situation stands at present there is a bewildering array of organisations and bodies who are involved to varying degrees in British environmental policy. One scholar goes as far as to say that these circumstances make it very difficult to determine exactly who is responsible for environmental policy making and implementation (McCormick 1991, 15). Nevertheless, it could be argued that among the key national-level, government actors are central government departments charged with environmental responsibilities. At the time of writing, the Department for the Environment, Food and Rural Affairs (DEFRA), which came into existence in 2001 after a government re-organisation, is the pivotal department in Britain. Previously, from 1997, environmental policy had been handled by the Department of the Environment, Transport and the Regions (DETR). When the DETR was dismantled, and its environmental functions were transferred to DEFRA, the remaining elements were grouped together as the Department of Transport, Local Government and the Regions (DTLR), until this in turn was split in 2002 to create two new, separate units: the Department of Transport (DfT) and the Office of the Deputy Prime Minister (ODPM) (with responsibilities for local government and the regions). Beyond, these central government departments, there are a number of others that are less obviously concerned with environmental issues (Flynn 2001, 618). See Figure 2 for a more detailed summary of the actors involved, analysed by level and sector.

**Figure 2: Environmental Institutions: Sector and Level**

	<b>Government</b>	<b>Non-government</b>
Sub-national	Devolved bodies <ul style="list-style-type: none"> <li>e.g. National Assembly for Wales, Scottish Parliament and Scottish Executive, Northern Ireland Assembly, Regional Development Agencies and Greater London Assembly</li> </ul> Local Government: Counties and Unitary Authorities	Locally based private business organisations  Locally based environmental interest groups
National	Parliament: Select Committees in the Houses of Commons and Lords <ul style="list-style-type: none"> <li>e.g. House of Commons Select Committees - Environment, Food and Rural Affairs, Environment, Transport and the Regions, and Environmental Audit</li> <li>e.g. House of Lords Select Committees - EU Environment, Agriculture, Public Health and Consumer Protection</li> </ul> Central Government departments <ul style="list-style-type: none"> <li>e.g. DEFRA, DoT, ODPM, Treasury, DTI, DE and Cabinet Office (Cabinet Committees e.g. Ministerial Committee on the Environment (ENV), and Ministerial Sub-Committee on Green Ministers (ENV(G)))</li> </ul> Quasi Government <ul style="list-style-type: none"> <li>Executive Agencies               <ul style="list-style-type: none"> <li>e.g. Pesticides Safety Directorate, Rural Payments Agency, OFFER and OFWAT</li> </ul> </li> <li>Executive Non-Departmental Public Bodies               <ul style="list-style-type: none"> <li>e.g. English Nature and the Environment Agency</li> </ul> </li> <li>Advisory Bodies               <ul style="list-style-type: none"> <li>e.g. Royal Commission on Environmental Pollution and the Sustainable Development Commission</li> </ul> </li> </ul> Nationally based Public Corporations, tribunal and others <ul style="list-style-type: none"> <li>e.g. British Waterways</li> </ul>	Nationally based private business organisations- individual firms and national trade associations and professional bodies <ul style="list-style-type: none"> <li>e.g. Electricity Producers Association</li> </ul> Nationally based environmental interest groups <ul style="list-style-type: none"> <li>e.g. RSPB and the CPRE</li> </ul>
Supranational	European Union and other international organisations <ul style="list-style-type: none"> <li>e.g. European Commission DG Environment and the European Parliament Committee on the Environment, Public Health and Consumer Policy</li> </ul>	Transnational private business organisations <ul style="list-style-type: none"> <li>e.g. TXU Energy and Thames Water plc</li> </ul> Transnational environmental interest groups <ul style="list-style-type: none"> <li>e.g. World Wide Fund for Nature (WWF)</li> </ul>

Other significant ‘government’ actors who are currently heavily involved in the policy making process at the national level (that might be labelled ‘quasi-government’), include the Environment Agency which was created in the mid-1990s by combining Her Majesty’s Inspectorate of Pollution (HMIP), the National Rivers Authority (NRA) and Waste Regulation Authorities (WRA’s). The Sustainable Development Commission, which began work in 2000, superseded the UK Panel on Sustainable Development and UK Round Table on Sustainable Development is another crucial, additional institutional structure to be added to the extensive list of national government actors involved in British environmental policy making.

In addition to the government actors highlighted above, there is a vast array of private sector, nationally based, commercial organisations that have a role in UK environmental policy making including individual firms. In addition, there are numerous national, collective business groupings in the form of trade associations or professional bodies such as the Electricity Producers Association, the Timbers Growers Association and the Institute of Environmental Management and Assessment. Finally, at the national level there is a growing body of environmental NGOs, including the Royal Society for the Protection of Birds, the Council for the Protection of Rural England and many others.

#### **4.3 Supranational level**

At the supranational level, it is the EU institutions that have played, and continue to play, a distinctive role in British environmental policy making. Particularly noteworthy is the part played by the European Commission’s DG Environment and DG Regio, along with the European Parliament Committee on the Environment, Public Health and Consumer Policy. Often in alliance with these supranational ‘governmental’ organisations, there are transnational private business organisations (e.g. TXU Energy and Thames Water plc) and transnational interest groups (e.g. World Wide Fund for Nature (WWF)), who make a discernible contribution to British environmental policy (Fairbrass and Jordan 2001a; Fairbrass and Jordan 2001b).

#### **4.4 Sub-national level**

It is at the local or sub-national level where the changes lie that form the heart of this study. In 1998/99 devolution created a National Assembly for Wales, a Scottish Parliament and Scottish Executive, and Regional Development Agencies and regional chambers (among the regional chambers only the Greater London Assembly is elected). These now exist alongside the previously created but intermittently functioning Northern Ireland body and the long established local authorities. The latter have played a major role in environmental policy (in its implementation if not its formulation). Along with these sub-national or local

governmental organisations there is a plethora of local private sector business organisations and local interest groups (McCormick 1991, 21-26). It is the newly established authorities in Scotland and Wales that form the focal point for the discussion in the next section.

## 5. Devolution in the UK

### 5.1 Historical background

Over the course of about 800 years the peoples of England, Wales and Scotland and Ireland have combined to form a single state (Bogdanor, 1999, 3-7), the United Kingdom of Great Britain and Northern Ireland (UK). This has traditionally been characterised as a unitary state<sup>7</sup> (Bogdanor 1999, 14; Norton 2001, 261) and some go as far as describing it as an “extreme case” of a unitary state because of the subservient position of local government (John, 1996, 132). For one scholar the ‘unitariness’ of the UK lies in the

“...supremacy of Parliament [which] has been one of the strongest tacit understandings which underpin our Constitution” (Bogdanor 1999, 2).

For some scholars, the UK is an example of a ‘union’ state, best exemplified by the Anglo-Scottish Union in 1707 (Keating and Elcock 1998, 2). Later, Acts of Union passed in the British and Irish Parliaments in 1800 formally created the United Kingdom of Great Britain and Ireland, but it was not long before political and religious tensions within the UK began to surface. During the twentieth century, various forces and factors combined to produce a gradual disintegration of the UK. Nationalism in Ireland led to a significant event in this process: the signing of the Anglo-Irish Treaty of 1921, which marked the dissolution of the Union with Ireland. This left six northern Irish counties as part of the newly formed United Kingdom of Great Britain and Northern Ireland, and the Republic of Ireland a separate sovereign state. In the decades that followed, nationalism also began to emerge in Wales and Scotland, evidenced by the formation of Plaid Cymru in 1925 in Wales and the SNP in 1934 (Bradbury and Mawson 1997). It was not, however, until the 1960s that the calls for full independence (or at least devolution) became more strident. In response to these pressures, the UK government began to consider the possibility of devolution to Wales and Scotland (Mitchell 2002, 245-6; Norton 2001, 262-66). In 1968, the Labour Government set up the Kilbrandon Commission, which reported in the early 1970s, which helped to keep devolution on the political agenda during the 1970s. In 1978, this resulted in two devolution Bills being passed at Westminster and, in 1979, led to the two ‘failed’ referendums in Scotland and Wales. Under the Conservative governments of the 1980s and 1990s, devolution slipped down the political agenda at Westminster and Whitehall, although not in Edinburgh and Cardiff (Mitchell 2002, 247), and the issue was not revived in London until the Labour

<sup>7</sup> A unitary state can be defined as one in which state power resides at the centre. The Monarch-in-parliament is the constitutionally supreme organ of power. New layers of government can be created by an Act of Parliament and can be removed again (Norton 2001, 261)

Government came to office in 1997. In the following year referendums produced positive but distinctly different outcomes in Wales and Scotland. These led, in turn, to the Scotland Act 1998 and the Government of Wales Act in 1998<sup>8</sup>. See Figures 3 and 4 for a more extensive chronology.

**Figure 3: Chronology: The integration of England, Wales, Scotland and Ireland**

<i>9<sup>th</sup>-10<sup>th</sup> centuries</i>	England and Scotland emerge as states.
<i>13<sup>th</sup> century</i>	England begins acquiring Welsh land
<i>1277</i>	Welsh independence ended with Treaty of Aberconwy
<i>1328</i>	England recognised Scottish independence in Treaty of Northampton
<i>1534</i>	England established direct rule over Ireland
<i>1536 &amp; 1543</i>	Acts of Parliament - incorporated Wales into England
<i>1603</i>	James VI of Scotland succeeded to throne of England: the countries are joined constitutionally
<i>1706</i>	Treaty signed between England and Scotland, creating Great Britain
<i>1707</i>	Treaty ratified between England and Scotland but Scotland retains several important aspects of identity (Church, legal system and education system)
<i>1782</i>	Irish Parliament granted co-ordinate powers with Westminster (ended subordination to Westminster)
<i>1800</i>	Acts of Union passed by Irish and British Parliaments, creates United Kingdom of Great Britain and Ireland

<sup>8</sup> In the same year (1998), the Good Friday Agreement was reached in Northern Ireland and the Regional Development Agencies Act was passed. The latter granted powers to the English Regions. In 1999, the Regional Development Agencies (RDAs) were established.

**Figure 4: Chronology: Devolution**

<b>1885</b>	Scottish Office created
<b>1907</b>	Sinn Fein formed
<b>1921</b>	Anglo-Irish Treaty dissolves Union with Ireland apart from 6 northern counties. Creates United Kingdom of Great Britain and Northern Ireland
<b>1922</b>	Parliament for Northern Ireland established at Stormont by Act of Parliament
<b>1925</b>	Plaid Cymru formed
<b>1934</b>	SNP formed
<b>Early 1960s</b>	Welsh Language Society formed
<b>1965</b>	Post of Secretary of State for Wales created in Whitehall
<b>1966</b>	1 <sup>st</sup> Plaid Cymru MP elected to Westminster
<b>1967</b>	SNP won Hamilton by-election; Welsh language given official recognition and status
<b>1968</b>	Conservative Party set up a committee to examine the possibility of an elected assembly in Scotland; Labour set up Royal Commission under Lord Kilbrandon
<b>1970s</b>	Devolution remained on the political agenda North Sea Oil – grounds for Scottish economic independence
<b>1973</b>	Kilbrandon/Royal Commission reported – recommended some form of devolved government
<b>1978</b>	Devolution Bills in Westminster passed
<b>March 1979</b>	Referendums held in Wales and Scotland but did not achieve results required for devolution (Wales 4 to 1 defeat; Scotland 33% in favour and 31% against)
<b>1981</b>	Scottish Grand Committee set up in House of Commons comprising Scottish MPs to deal with Scottish legislative issues
<b>1983-92</b>	SNP share of vote in general elections rose from 12% to 22% in Scotland
<b>1989</b>	Scottish Constitutional Convention established – SNP refused to join in discussions.
<b>1997</b>	Referendums on devolution in Wales and Scotland. Scottish referendum – two questions: one on tax varying powers and one on a Scottish Parliament. For Welsh – only one question about a Welsh Assembly.
<b>1998</b>	Good Friday Agreement reached re NI; Scotland Act and Government of Wales Act passed; Regional Development Agencies Act passed (re England).

**Table 4: ...../cont**

<b>1<sup>st</sup> April 1999</b>	RDAs (Regional Development Agencies) established in England.
<b>May 1999</b>	1 <sup>st</sup> elections to Scottish Parliament and to Welsh Assembly
<b>1<sup>st</sup> July 1999</b>	The Scottish Office became known as the Scottish Executive formed containing six main departments; Functions of the Welsh Office were transferred to the Welsh Assembly.
<b>December 1999</b>	New executive established in NI.
<b>February 2000</b>	NI Assembly suspended.

## 5.2 Scotland and Wales: devolved powers and structures

"Devolution involves the transfer of powers from a superior to an inferior political authority [that is] *the transfer to a subordinate elected body, on a geographical basis, of the functions at present exercised by ministers and Parliament.* These functions may be either legislative, the power to make laws, or executive, the power to make secondary laws – statutory instruments, orders, and the like – within a primary legal framework still determined at Westminster." (Bogdanor 1999, 2-3, emphasis in original)

The devolution<sup>9</sup> of powers to bodies in different parts of the UK, which came into effect on the 1<sup>st</sup> July 1999 in Scotland and Wales, has been an unequal one. It is what might be termed 'asymmetrical devolution' (Norton 2001, 261). In the case of Scotland and Wales different powers have been granted under the Acts of 1998 and varying structures have been created. Since 1999, Scotland has had a Parliament of 129 members elected every four years on the Additional Member System of proportional representation. It operates broadly on the Westminster model, electing a First Minister who heads an Executive. The Executive works via functional and crosscutting departments and cabinet committees. Many of the civil servants now in place were previously employed in the Scottish Office. (Norton 2001, 267; Bogdanor 1999, 111-115). The SP and SE have responsibility for most aspects of domestic, economic and social policy, including environmental policy, while the UK Parliament retains control

<sup>9</sup> Crucially, a devolved state is distinct from a federal state because devolution preserves the supremacy of Parliament. Whilst power is handed to subordinate bodies under devolution, it is not shared with those bodies as is the case in a federal state (Bogdanor 1998, 3; Peters 2001, 73)

of foreign affairs, defence and national security, macro-economic and fiscal matters, employment and social security. The SP is funded by a block grant from the UK Government but has the power to increase or decrease the basic rate of income tax set by the UK Parliament by up to three pence in the pound (Norton 2001, 266).

In the same year as the SP and SE were installed, the NAW was created. It has 60 members, also elected by the Additional Member System of proportional representation. Unlike the SP and SE, the NAW does not have the power to make primary legislation, but enjoys extensive executive powers and may make secondary legislation (i.e. orders and regulations fixing the detail of implementation). It has taken over powers previously vested in the Secretary of State for Wales (i.e. the Welsh Office) and many of its current civil servants previously worked in the Welsh Office (Norton 2001, 269; Bogdanor 1999, 159-161). The NAW's responsibilities are not as wide as those of the SP: in particular, the UK Government retains responsibility for the police and the legal system. In common with those powers reserved with regard to Scotland, the UK Parliament also retains control of foreign affairs, defence and national security, macro-economic and fiscal matters. Crucially, the NAW, like the SP and SE, does have power over environmental policy. The Assembly has chosen to establish a Cabinet system on the SE model, albeit combined with a strong committee system. The NAW is funded by a block grant and, unlike the SP/SE, has no powers to vary taxation (Norton 2001, 269).

### 5.3 Memoranda, concordats, and guidance notes

As noted above, devolution has led to the granting of powers over environmental policy to the Welsh and Scottish devolved bodies but the UK Government and Parliament have retained authority over international and EU matters. Potentially, these circumstances could have very significant implications for UK environmental policy as much of the UK's environmental policy is deeply affected by environmental policy making at the EU level (Jordan 2002). On the one hand it seems likely that the UK government will only allow the devolved bodies little discretion when it comes to environmental policy, since a "UK-line" will need to be presented in the Environmental Council of Ministers in Brussels. On the other hand, the devolved bodies may well seek ways to develop their own distinctive 'national' environmental policy, and establish direct relations with EU level policy makers. One scholar, at least, argues that there will be no withering away of regional influence on the UK position (Leicester 1998, 16) but there would appear to be a considerable potential for uncertainty, conflict and unintended outcomes with regard to UK environmental policy.

It may be possible to forecast the future trajectory of general London-Cardiff-Edinburgh relations (and specifically with regard to environmental policy), by carrying out a close reading of the many concordats and guidance notes<sup>10</sup> agreed by the UK Government and executives in Wales and Scotland. These documents have been compiled in an effort to 'manage' the devolution process and guide future working relationships between the different tiers of decision making. The underlying document is the Memorandum of Understanding<sup>11</sup> (MoU) (Cm 5420). This comprises a series of agreements. See Figure 5 for the contents listing.

In addition to the main text of the MoU, there are five supplementary agreements or concordats that apply broadly uniform arrangements through out the UK covering the following matters: the establishment and operation of a Joint Ministerial Committee (JMC); the co-ordination of European Union policy issues; Financial Assistance to Industry; International Relations; and Statistics. In addition to the MoU, and the supplementary agreements that it contains, are a number of bi-lateral concordats drawn up between the devolved authorities and UK central government departments. The Scottish Executive and the National Assembly for Wales have concordats with most functional departments including DEFRA (formerly MAFF), the ODPM, the DfT, and the Cabinet Office.

What is initially very striking about the MoU is that it describes itself as

“statement of political intent, and should not be interpreted as a binding agreement. It does not create legal obligations between the parties. It is intended to be binding in honour only.” (Office of the Deputy Prime Minister 2001, 4)

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<sup>10</sup> The Office for Deputy Prime Minister is now responsible for issuing Devolution Guidance Notes. Up to January 2003 fourteen such notes had been issued covering topics such as ‘Common Working Arrangements (DGN 1), ‘Attendance of UK Ministers and Officials at Committees of the devolved legislatures’ (DGN 12) and ‘The Role of the Secretary of State for Wales (DGN 4).

<sup>11</sup> The first MoU (Cm 4443) was issued in October 1999 agreed between the UK Government and the devolved administrations<sup>11</sup>. This was superseded by MoU (Cm 4806) issued in July 2000 to reflect the Northern Ireland Executives Committee's decision to become a party to the agreement, and later replaced by the most recent MoU (Cm 5240), published in December 2001.

**Figure 5: Contents of the Memorandum of Understanding (Cm 5420)**

<b>Explanatory Note</b>
<b>PART I</b>
<b>Memorandum of Understanding</b>
<b>PART II</b>
<b>Supplementary Agreements</b>
<b>A: Agreement on the Joint Ministerial Committee</b>
<b>A1: The Joint Ministerial Committee</b>
<b>A2: Annex on the Secretariat to the JMC</b>
<b>B: Concordat on Co-ordination of European Union Policy Issues</b>
<b>B1: Scotland</b>
<b>B2: Wales</b>
<b>B3: Northern Ireland</b>
<b>B4: Common Annex</b>
<b>C: Concordat on Financial Assistance to Industry</b>
<b>D: Concordat on International Relations</b>
<b>D1: Scotland</b>
<b>D2: Wales</b>
<b>D3: Northern Ireland</b>
<b>D4: Common Annex</b>

This wording, in itself, would seem to create some uncertainty and the potential for unintended consequences. Nevertheless, in effect, the basic MoU aims to establish 'good working relations' between London, Cardiff, and Edinburgh, which embody principles such as co-operation, early and willing consultation, and the respect for each party's confidentiality (Cm 5420, 6-11). What is also apparent from reading the MoU is that London retains the whip hand in the relations with Cardiff and Edinburgh. For example, in the MoU it states that

“The United Kingdom Parliament retains authority to legislate on any issue, whether devolved or not. It is ultimately for Parliament to decide what use to make of that power.” (Cm 5420, 8)

That said, the UK Government and the UK Parliament

“...would not normally legislate with regard to devolved matters except with the agreement of the devolved legislature.”(Cm 5420, 8)

As for international relations and EU matters,

“As a matter of law, [they] remain the responsibility of the United Kingdom Government and the UK Parliament.” (Cm 5420)

But again, recognising the rights and duties of the devolved bodies the MoU states that

“...the UK Government recognises that the devolved administrations will have an interest in international and European policy making in relation to devolved matters, notably where implementing action by the devolved administrations may be required. They will have a particular interest in those many aspects of European Union business which affect devolved areas, and a significant role to play in them.” (Cm 5420, 8)

Crucially, one of the devolved policy areas that is affected by the EU, and which the Welsh Assembly and the Scottish Parliament/Executive will have 'an interest in' is environmental policy. The MoU proceeds by stating that

“The UK Government will involve the devolved administrations as fully as possible in discussions about the formulation of the UK’s policy position on all EU and international issues which touch on devolved matters.” (Cm 5420, 9)

Nevertheless, it is the devolved bodies that are likely to shoulder the costs (i.e. financial and legal) of implementation for policy areas such the environment. But even here they are not likely to be able to act entirely autonomously. As the MoU says,

“The devolved administrations are responsible for implementing international, ECHR and EU obligations which concern devolved matters. In law, UK Ministers have powers to intervene in order to ensure the implementation of these obligations [...] The devolved administrations are directly accountable through the domestic courts, in the same way as the UK Government is, for shortcomings in their implementation or application of EC law. It is agreed by all four administrations that, to the extent that financial penalties are imposed on the UK as a result of any failure of implementation or enforcement, or any damages or costs arise as a result, responsibility for meeting them will be borne by the administration(s) responsible for the failure.” (Cm 5420, 9)

Concordat B of the MoU goes on to set out in more detail the provisions concerning the co-ordination of European policy issues, reiterating many of the points above. Specifically, the Concordat covers: the provision of information; the formulation of UK policy; attendance at Council of Ministers and related meetings; the implementation of EU obligations; and infraction proceedings. This concordat reiterates the point that London will consult and co-operate with Cardiff and Edinburgh, particularly on devolved issues (such the environment). The MoU envisages that much devolved policy will be handled via bilateral relations between Whitehall departments and the devolved administrations. To that end about a dozen concordats have been drafted and agreed between Whitehall and the devolved administrations. For example, the DETR and MAFF (now DfT, OPDM and DEFRA following reorganisation in 2001 and 2002) drew up bilateral concordats with the National Assembly for Wales and the Scottish Parliament and Executive. An extract from the concordat between the DETR and the National Assembly for Wales reflects the way in which London ultimately controls environmental policy making in an EU context but which encourages consultation. It states that

“Relations with the EU are the responsibility of the UK Government. MAFF consequently retains overall policy responsibility for the formulation of UK policy towards EU initiatives, but will seek to involve the Cabinet of the National Assembly for Wales as directly and fully as possible in decision making on EU matters which touch on devolved areas and non-devolved areas which have a distinctive impact and are of importance in Wales.” (DETR, 2000)

So, in summary, it is entirely plausible and likely that Cardiff and Edinburgh will want to develop their own environmental policies that address their own particular environmental problems. However, if/when there is an EU dimension then it is likely that it will be London that leads the negotiations and a 'UK-line' is likely to be presented in the Environment Council of Ministers in Brussels, albeit informed and supported by Cardiff and Edinburgh officials.

## 6. Reflections and Future Research

This paper depicts the changing formal roles of, and relations between, the UK Government and other actors at various levels of decision making, both in general terms and in particular with regard to environmental policy making, following the devolution of powers to bodies in Wales and Scotland in the late 1990s. The data shows that many actors at sub-national, national and/or supranational tiers of decision making have had a role in environmental policy-making process in the UK in the past, resulting in a rather dispersed pattern of decision making prior to devolution. Examining the agreements designed to 'manage' devolution and develop good working relations between London, Cardiff and Edinburgh post-devolution, it would seem that there is potential for further fragmentation, given that environmental policy is one of the devolved policy areas. However, as EU relations are a 'reserved matter', what is equally evident is that when environmental policy making involves the EU level, then the devolved bodies may be somewhat constrained as it is the UK government line that formally should prevail. Consequently, what is likely to be interesting to observe is the way in which Cardiff-Edinburgh-London relations develop formally and informally over the course of time. In addition, the future trajectory of Cardiff-Edinburgh-Brussels axis is also likely to be fascinating to monitor. Already the Welsh Assembly and the Scottish Parliament/Executive have established a presence in Brussels: it will be interesting to see how sub-national/ supranational relationships actually develop. The devolved bodies may seek to exploit EU level opportunities in the same way as sub-national non-governmental organisations have done in the past (Fairbrass and Jordan 2002).

In conclusion, it is possible that Bogdanor's and Mitchell's assessments of devolution will prove to be accurate. It could well mark a distinct break from the past. In their words, devolution challenges the “profoundly unitary nature of the British state” (Bogdanor 1999, 2) and at face value it looks like "a radical restructuring of the constitution" (Mitchell 2002, 237). One of the outcomes might be changed patterns of behaviour and altered relationships between sub-national, national and supranational governmental and non-governmental actors involved in UK and EU environmental policy making. However, given the path dependent nature of formal and informal institutions, it would not seem unreasonable to expect find some degree of continuity, not least in terms of the civil service personnel that now support the NAW and the SE/SP. What is difficult to predict, for the policy practitioner and academic alike, is the future relationships. If HI is correct, many significant, unexpected and unforeseen consequences could arise despite the path dependent nature of the political institutions.



Having completed the documentary analysis phase of this research, the next crucial step, in the short-term, is to conduct the primary research. This will entail interviews with governmental and non-governmental actors in London, Cardiff and Edinburgh who are involved in EU matters and environmental policy, to discover what has actually occurred in the relatively brief period since 1998. As another scholar says,

“The old constitutional settlement [in the UK] has been shaken as a result of devolution. That has been obvious in the formal institutions. Less obvious has been any parallel shake-up in the informal institutions. The interaction of the new formal institutions with old ones is still evolving and as yet unsettled.” (Mitchell 2002, 254)

In the longer term, it is intended that the data revealed by this research will allow meaningful comparative work: comparing the impact of devolution on environmental policy in the UK with the impact of similar decentralising trends in other EU states and going beyond to compare the UK with devolved states such as Canada and Australia.

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