



THE UNIVERSITY *of* EDINBURGH

Edinburgh Research Explorer

Legal Compensation Frameworks for Wind Farm Disturbance - Technical Report

Citation for published version:

Ghaleigh, N-S 2013, *Legal Compensation Frameworks for Wind Farm Disturbance - Technical Report*. ClimateXChange.

Link:

[Link to publication record in Edinburgh Research Explorer](#)

Document Version:

Publisher's PDF, also known as Version of record

General rights

Copyright for the publications made accessible via the Edinburgh Research Explorer is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

Take down policy

The University of Edinburgh has made every reasonable effort to ensure that Edinburgh Research Explorer content complies with UK legislation. If you believe that the public display of this file breaches copyright please contact openaccess@ed.ac.uk providing details, and we will remove access to the work immediately and investigate your claim.



Legal Compensation Frameworks for Wind Farm Disturbance – Technical Report

Navraj Singh Ghaleigh

June 2013

1. Summary

- Householders have claimed diminution of property values arising from noise and flicker generated by wind farms.
- There is no dedicated compensation framework for the noise or visual impact of wind farms in Scotland, or for any related loss of value to property.
- A compensation scheme and tribunal was established in Denmark in 2009 for loss of property value arising from proximity wind farms.
- Goodwill payments from developers to householders are not unknown. Community benefit schemes, which are not compensatory, are more prominent.
- Voluntary payments are sometimes made by larger developers to householders, on a variety of bases.
- Council tax revaluations resulting from proximate wind farms have been reported but are rare.
- Legal actions based on 'nuisance' are possible but none have as yet succeeded in England (although a potentially important case settled during trial) or Scotland.
- Planning controls can be used to ensure that wind farms operate within the terms of their consent.

2. Introduction

ClimateXChange has commissioned a **review of legal frameworks for environmental compensation and their potential application in compensating householders for noise and flicker disturbance associated with the operation of wind turbines and for loss of value to privately owned property.**

This report addresses the following questions:

- (i) What are the UK and Scottish legislative frameworks that allow for some element of compensatory payments to be made for loss of amenity, loss of property value or disturbance when developments are permitted on land nearby?
- (ii) How far could each framework apply to compensate householders affected by disturbance from wind farms? The report should highlight the options open from the perspectives of a householder/ home owner seeking some kind of compensation.
- (iii) What compensatory payments are specifically in place to compensate householders for loss of amenity, loss of property value or disturbance due to wind turbines in other countries, and what legal frameworks do they form part of? What limitations exist to this legislation in terms of what criteria need to be satisfied in order for payment to be approved?
- (iv) What schemes exist in other countries that might provide an alternative approach to compensating householders and what lessons can be learned from them?

3. Background

Wind farm noise is assessed throughout the UK for planning purposes by reference to ETSU-R-97 (an industry standard drafted in 1995 by the DTI) and taking account of the latest industry good practice and any guidance on best practice that the Government may from time to time publish.¹ ETSU measures prevailing background noise, generates maximum permissible day and night time noise levels, predicts the likely noise emissions at representative properties and drafts conditions requiring that noise levels not be breached. Noise limits will therefore often influence the separation of wind turbines from residential properties.²

There is currently no minimum separation distance between wind turbines and houses, although local planning authorities do set their own guidance and are required to consider noise and shadow flicker as part of the criteria in their Development Plans. Within Scottish Planning Policy a distance of 2km is recommended.³ There is currently a new draft Planning Policy which suggests that this will change to 2.5km. The Scottish Government rejected Petition PE1328 (November 2010) which sought a guaranteed minimum separation distance of 2 km.

The planning process for wind farm developments in Scotland is complex and detailed. Although not strictly relevant to the question at hand, it is laid out in Appendix 1 to provide context to the broader process.

4. Statutory Compensation (Scotland and UK)

There are no specific frameworks that enable payment of compensation to those householders/house owners impacted (whether noise, visual or other impacts) by the development of wind farms in their vicinity in Scotland. Although other more general frameworks do exist, complainants seeking compensation for proximate wind farms would face overwhelming difficulties in triggering them.

The generic scheme of the Compensation Act 1973, which only applies to projects which result from statutory powers, is of limited relevance here. Similarly, the Land Compensation (Scotland) Act 1973 applies only to 'public works', which wind farms are not. The Electricity Act 1989 does set out a scheme (at Sch 3, Part III) for compensation but this relates principally to compulsory acquisition of land, while the Town and Country Planning (Scotland) Act 1997 does provide for compensation on grounds of blight "where the marketability of land is adversely affected by proposals which give rise to the apprehension that such land will be the subject of compulsory acquisition in the foreseeable future."⁴ Such a high threshold is wholly unlikely to be satisfied in the case of wind farm noise.

5. Statutory Compensation (Denmark)

In 2009 Denmark, uniquely, legislated for a specific statutory scheme to compensate property owners for any loss of value arising from proximity to wind farms. The *Law to Promote Renewable Energy 2009* is secondary legislation.⁵ At Chapter 2§6 it provides that installers of turbines larger than 25 metres must compensate property owners for any loss of value if the loss is more than one per cent of the property value. A special tribunal ('Taksationsmyndigheden') is authorised to make the relevant binding decisions in respect to the compensation.⁶ The property owner and the person installing the turbines can, however, reach an agreement without involving the authority. 'Taksationsmyndigheden' is chaired by a person who is qualified to sit as a judge and an "expert" (the equivalent of a surveyor).

An evaluation of the 551 compensation payments indicates that the average award was 57,000 kroner (c.£5,500) per household and that recipients did not feel that the amount of compensation came close to reflecting the actual value of their loss. Being managed by the Ministry for Energy, there are also complaints that the scheme suffers from an inherent conflict of interests and ought to be managed by the Ministry of

Justice.⁷ Evaluations are done independently and on a case-by-case basis, taking into account the distance to the turbines, visual aspect, noise, shade, the character of the property and the market evaluation of the area.⁸

6. Voluntary Payments

Goodwill Payments

Some developers make payments members of local communities who will be impacted by proposed developments as a gesture of goodwill. (NB. This is separate from community benefit, which is not a form of compensation – see Appendix 2 below.) These gestures are becoming more common as developers seek to gain the support of stakeholders. As electricity costs rise, local communities living close to proposed wind farms increasingly seek a reduction of their electricity bills. It should be noted that these are not payments for disturbance (they are often made before construction) and are made available to a class of people, not nominated individuals.

Recent examples include:

RES Ltd (Renewable Energy Systems) announcing that they intend to establish a “local electricity discount scheme”⁹ at the Meikle Carewe wind farm in Aberdeenshire and Tallentire wind farm in Cumbria. A fund will be established to discount electricity bills of local residents. This will occur regardless of the energy supplier they select. It is anticipated that households will save up to £200 on electricity bills per annum. The same developer is also establishing such schemes in Northern Ireland.¹⁰ This allows individual households to benefit from the development rather than establish an overall fund that can only be used to fund projects which fall within parameters agreed between the local community and the developer. Prior to this local electricity discount initiative there have been similar schemes, however these benefits have only been available where the customer has switched electricity supplier prior to the wind farm commencing operation. Once the customer signs up to a specific tariff which in one example¹¹ has been the Green Energy UK’s Deep Green Tariff, the customer then receives a lower rate of electricity than with other suppliers.

Another example of goodwill payment mechanisms is in relation to community turbines and ‘virtual turbines’ whereby the local community is afforded the opportunity to invest in the project and have ownership of part of the project. Annual dividends from the profits are then paid back to the shareholders. With ‘virtual turbines’ the community has a stake in the overall project and therefore there are fewer issues than associated with owning one specific turbine.¹² Although this is a benefit to the community, this requires members of the community who wish to invest to provide up-front capital. This therefore limits the number of those who can benefit from such a scheme.

Funds have also been established by developers which are specifically designed to fund energy efficiency measures in the local community. Examples of this include providing free insulation in the homes of people within the local community, free light bulbs and general energy efficiency advice. All of these measures were introduced at the Hadyard Hill wind farm in South Ayrshire.¹³ Certain developers have also provided benefits in kind to the local communities by providing local leisure facilities, one of the main examples is at the Whitelee Wind Farm whereby a visitor centre and café has been built with mountain biking and walking tracks built around the wind farm for public use.¹⁴

Although these ‘benefits in kind’ are being used by developers and local communities, they are unlikely to be used instead of community benefit payment. As community benefit becomes more standardised across the industry, communities are coming to expect up to £5000 per MW. Benefits in-kind or goodwill payments will remain an additional option which local communities may try to negotiate. As local communities become more aware of what is available, developers will need to be prepared for their expectations.

Noise Disturbance Agreements

Developers can voluntarily offer compensation to those living in the vicinity of the windfarm and may enter into Noise Disturbance Agreements with neighbours. These arrangements, which are relatively common in Scotland, are contractual in nature and as such are not registered or publically available. They generally provide for compensation to a neighbour to a windfarm and may act as evidence that the neighbour does not object to a development. The effectiveness of such agreements is yet to be tested in Scotland. (If all relevant householders, leaseholders etc sign such an agreement then it may be that the distances set down by the specific local authority can be largely disregarded where no public interest reasons prevent the agreed terms being deemed to be appropriate.)

7. Council Tax Revaluation

The Valuation Office Agency (in England and Wales)/Scottish Assessor have the capacity ‘re-band’ properties when relevant circumstances change. There are recent press reports of the VOA accepting that a 22 turbine wind farm 650m from a house decreased the latter’s value and re-banded as a result.¹⁵ In the case of the Drumderg wind farm in Perthshire (16 turbines, the closest turbine 1140m away from the dwelling), Perth & Kinross Council reassessed the dwelling and the council tax banding was changed from band D to band C and the house value was reduced by 20%.¹⁶ It should be noted that the press reports are incomplete and other factors may have been relevant to the re-banding decisions. There is also evidence of discretionary local council tax discounting in individual cases where property has been affected by the proximity of electricity generating wind turbines.¹⁷

8. Nuisance Actions and Planning

In law, ‘nuisance’ is a means by which lawful occupiers of land can be protected against interferences which inhibit their full use of their land for normal purposes. A balance must be struck between competing interests of the claimant and alleged interferer – the former can make out a nuisance claim only if, the latter has *unreasonably* used its property so as to damage the interests of the claimant. Whilst authorization for an activity (such as the award of planning permission¹⁸ for a wind farm) may be relevant to a defence, it will not be a bar to a finding of nuisance. In the recent case of *Barr v Biffa*¹⁹ which related to odours from a waste disposal site, the Court of Appeal did not accept that compliance with regulatory controls such as a permit provided an absolute defence.²⁰

This provides some background to the English case of *Davis v Tinsley*. A private nuisance claim²¹ was brought by Mr and Mrs Davis of Gray’s Farm, Deeping St Nicholas against the owners and operators of a nearby 8 turbine wind farm, the nearest of which was just over 1000m from their home. The starting point of determining the question of reasonableness was argued by the defendant to be compliance with ETSU and planning conditions. The case came close to determination but settled part-way through the High Court trial, on confidential terms.²² Nevertheless, in the light of *Barr v Biffa*, a more general principle of good neighbourliness may be emerging. As Lord Justice Carnwath put it: “An activity which is conducted in contravention of planning or environmental controls is unlikely to be reasonable. But the converse does not follow. Sticking to the rules is an aspect of good neighbourliness but it is far from the whole story – in law as in life.”

In cases of statutory nuisance, the remedies include an abatement notice served by the local authority. Although not compensation as such, this requires the recipient to abate the nuisance and to take such steps or to carry out such works as the authority requires the recipient to do to abate the nuisance. Failure to

comply with an abatement notice is a criminal offence. In a similar fashion, when an enforcement notice has been issued, the local planning authority may issue a stop notice requiring that an activity should cease before the period for compliance with the enforcement notice.²³ Such a mechanism was deployed at the Achany wind farm which was issued with a temporary stop notice by the Highland Council in June 2011.²⁴

9. Conclusion

There is accordingly no dedicated legislative framework allowing for compensatory payments to be made for loss of amenity, loss of property value or disturbance arising from proximate wind farm developments. That said, there are a range of options open to householders affected by such developments although it should be noted that the most promising avenues are non-legal/voluntary rather than legally enforceable statutory or other frameworks which can be held against wind farm operators/developers. Whilst more formal, legally established mechanisms do exist elsewhere – with Denmark being the obvious example – it is not obvious that such processes are superior to negotiated, community-based alternatives.

10. References

- ¹ An analysis by Hayes McKenzie (June 2011, commissioned by DECC) concluded that ETSU-R-97 is inconsistently applied. The UK Government is consulting on further guidance.
- ² **DECC. July 2011.** National Policy Statement for Renewable Energy Infrastructure (EN-3): ¶12.7.55.
- ³ **Scottish Government. 2010.** Scottish Planning Policy: ¶190.
<http://www.scotland.gov.uk/Resource/Doc/300760/0093908.pdf> (Last Accessed 07/06/2013)
- ⁴ Stair Memorial Encyclopedia, Compulsory Acquisition and Compensation (Reissue) (2013) ¶120.
- ⁵ *Bekendtgørelse af lov om fremme af vedvarende energy 2009*, accessed on 5 June 2013
 <<https://www.retsinformation.dk/Forms/r0710.aspx?id=139075>>
- ⁶ <<http://taksationsmyndigheden.dk>> accessed on 5 June 2013.
- ⁷ **The Copenhagen Post, 12 November 2012.** "Wind Turbine Compensation Stirring Discontent"
 <<http://cphpost.dk/news/national/wind-turbine-compensation-stirring-discontent>> accessed on 18 June 2013.
- ⁸ Ibid.
- ⁹ **The Daily Telegraph. May 24 2013.** "Energy bill discount for wind farm neighbours"
<http://www.telegraph.co.uk/finance/personalfinance/10078872/Energy-bill-discount-for-wind-farm-neighbours.html> (Last accessed 04/06/2013)
- ¹⁰ **BBC News. May 30 2013.** 'RES offers compensation for building wind farms'. <http://www.bbc.co.uk/news/uk-northern-ireland-22713198> (Last accessed 04/06/2013)
- ¹¹ See <http://www.localenergyorganisation.org/index.cfm?page=41> (Last accessed 07/06/2013)
- ¹² **Vento Ludens Ltd, Docherty Consulting Ltd. June 2012.** *Securing the benefits of wind power in Scotland: A new concept for community benefit provision.* Available at: <http://www.ventoludens.co.uk/cms/upload/unternehmen/presse/Securing-the-Benefits-of-Wind-Power-in-Scotland-website.pdf> (Last Accessed 06/06/2013)
- ¹³ **Managenergy.** Hadyard Hill Community Energy Project Available at:
http://www.managenergy.net/lib/documents/148/original_cs_13_Hadyard_Hill.pdf (Last accessed 07/06/2013)
- ¹⁴ See http://www.whiteleewindfarm.co.uk/outdoor_pursuits/guidelines/being_responsible/cyclists (last accessed 07/06/2013)
- ¹⁵ **The Sunday Telegraph. July 22 2012.** "Wind farms do bring down property values"; **The Sunday Times. 22/7/2012.** "Council tax cut for homes near wind farms "
- ¹⁶ Letter of support for wind turbine planning application from Cllr Bob Ellis, Perth and Kinross Council
<http://www.pkc.gov.uk/CHttpHandler.ashx?id=21024&p=0>.
- ¹⁷ **HC Debs. May 13 2008, column 1442W.** "Council Tax: Tax Allowances"
- ¹⁸ The DECC position is that where the correct methodology has been followed and a wind farm is shown to comply with ETSU-R-97 recommended noise limits, the Infrastructure Planning Commission may conclude that it will give little or no weight to adverse noise impacts from the operation of the wind turbines.
DECC. July 2011. National Policy Statement for Renewable Energy Infrastructure (EN-3): ¶12.7.58.
- ¹⁹ **The Law Reports.** [2012] EWCA Civ 312.
- ²⁰ Where however a scheme benefits from development consent under s.158 of the Planning Act 2008 (approval for nationally significant infrastructure projects) it provides an absolute defence to a nuisance claim.
- ²¹ These are claims brought in the civil courts by individuals alleging that an activity is unreasonably affecting their enjoyment of their own property, seeking an injunction to limit that activity and/or damages. To be contrasted with statutory nuisance – a regulatory mechanism contained in the Environmental Protection Act 1990. A local authority can serve an abatement notice requiring a nuisance to be abated or restricted. Failure to comply with the notice is a criminal offence.
- ²² **The Daily Telegraph. November 20 2011.** 'Couple settle with wind farm operators over 'intolerable hum'
<http://www.telegraph.co.uk/earth/environment/8925467/Couple-settle-with-wind-farm-operators-over-unbearable-hum.html> (Last Accessed 10/06/2013)
- ²³ Town and Country Planning Act 1990 (as amended), s.183.
- ²⁴ The developer (Scottish and Southern Energy) had not, contrary to its planning consent, measured background noise levels before starting operations and also failed to submit a scheme for mitigating noise impacts or measure the level of noise following complaints. The notice was lifted on 10 June after a meeting between the company and council, at which Southern agreed to do the work – see ENDS Report, 'DECC promises more wind noise guidance', 4 July 2011.

Appendix 1: The Planning Process for Wind Farm Developments in Scotland

1. Statutory Framework and Scale

The planning process for consenting wind energy developments takes different forms depending on the size and scale of the project. Local planning applications are made to a local planning authority under the *Town and Country Planning (Scotland) Act 1997* (proposed development with a generation capacity of less than 50MW) and anything above 50MW made pursuant to section 36 of the *Electricity Act 1989*. These 'section 36 applications' are made to the Scottish Government Energy Consents and Deployment Unit (ECDU). The *Planning etc (Scotland) Act 2006* further categorises planning applications as local, major and national. In relation to wind energy proposals local applications are developments with a capacity of less than 20 Megawatts (MW); major applications are between 20MW and 50MW; and applications over 50MW are national applications. The majority of elements involved in the planning process at all of these levels are largely the same.

2. Commencement

Although initial consultation with the consenting authority usually takes place at a very early stage, the formal planning process commences with a submission of a screening request to the consenting authority. The purpose of this is to determine whether or not an Environmental Impact Assessment (EIA) is required, or if not a full EIA, what level of EIA may be required. Once the developer has carried out informal assessment and consultation (with SNH, SEPA, the local planning authority etc) to establish the proposed size of development, a request of a scoping opinion is made to the consenting authority. A scoping opinion is a report from the consenting authority and all statutory consultees, and some non-statutory consultees, which sets out the level of assessment that is required in relation to the various different elements of the EIA and any issues that are associated with the proposed development.

3. Consultation

All major and national applications must now undertake a 12 week public consultation prior to the submission of any planning application. A Proposal of Application Notice (PAN) is required to be sent to the consenting authority 12 weeks prior to submission. Normally a Pre-Application Consultation (PAC) report is submitted to the consenting authority either prior to submission of the planning application (Section 36 applications) or along side the planning application. This provides a detailed review of all public consultations that have been carried out in relation to the proposed development. The consenting authority can then readily assess whether or not the correct level of consultation has been carried out.

Scoping opinions, further consultations and initial assessments then all feed into the design of the project. Design is an important part of the process as this is required to be evidenced in the Environmental Statement (ES).²⁵ It is important that the developer can illustrate the design process in order to satisfy the consenting authority that the correct procedures have been followed. Once the EIA has been completed an ES or Environmental Report is prepared for submission as the application to the consenting authority.

The consenting authority then has 2 months (local applications)²⁶ or 4 months (national applications)²⁶ to determine the application, however in reality it is highly unlikely that a decision shall be made within this time. In order to determine the application the consenting body must consider the responses of all consultees prior to writing a report providing their decision. Due to constraints on many consultees e.g. The

Ministry of Defence, they are struggling to provide responses timeously. It is also often the case that consultees request further information from the developer and therefore the time for determination is required to be extended.

For local applications which do not receive more than 6 objections and which are not 'called in' by the planning committee, the local planning officer makes a decision regarding the outcome of the application. Otherwise the application shall be determined by a planning committee made up of local councillors. National applications shall be determined by the ECDU.

4. EIA

The EIA process is a detailed analysis of all potential environmental effects which may occur as a result of the proposed development and details mitigation that will be used to minimise any predicted impacts. In relation to wind energy developments the EIA assessment normally includes Ecology, Ornithology, Noise, Cultural Heritage, Landscape and visual and Carbon Balance to name a few, however the specific chapters included in an ES is determined by the specifics of the project.

It is becoming increasingly common for any proposed wind development to require some level of EIA prior to submission of the planning application. Although legislation²⁷ dictates when an EIA is required, the consenting planning authority has an element of discretion as to whether or not a full EIA is required which is dependent on whether or not the proposed development is likely to have a significant effect on the environment. Each chapter of the ES then assesses to what extent the proposed development would have a significant effect on the environment.

5. Community Engagement

There are various Planning Advice Notes²⁸ which set out further guidelines for developers as to procedures for engaging with the local community.

Community Councils are statutory consultees and therefore it is important that they are engaged from an early stage in order to attempt to gain their support and allow them an opportunity to feed into the design of the overall development. It is normal for a developer to attend community council meetings at a very early stage to introduce the community to the proposed development which will normally be before even a screening request has been submitted to the consenting authority. Community Liaison Groups have also started to become more common where a group of community members form a group to specifically meet with the developer in relation to the proposed project. These usually involve members from the surrounding community councils. Such a group is normally involved in the discussions and negotiations surrounding community benefit payments.

It is common for developers to hold public exhibitions on one or two occasions in order to provide the local community with detailed information as to the project. This usually occurs early on in the development for example 1 year prior to submission and then again in the months leading up to the submission. This allows communities to see how their views have been taken into account and allows them to keep up to date with the development of the project and ask any questions/ make suggestions.

In addition to all of the above there is a statutory requirement on developers to advertise the proposed development in the national and local press which again attempts to ensure that all local community members have had an opportunity to familiarise themselves with the project and/or comment.

Appendix 2: Community Benefit

Broadly defined, ‘community benefit’ in relation to wind farm development is regarded as a goodwill gesture by the developer to provide a certain element of financial benefit to the local community. The local community is usually defined within a specific geographical area. This fund does not benefit members of the community as individuals but aims to benefit the community as a whole. Community Benefit can be determined/paid in a number of different ways. The developer and the local community work together through the progression of the project, however community benefit is not agreed upon until planning consent has been obtained.

Often a community benefit fund is established to provide financing for community initiatives, for example funding a new community hall, or improving sporting facilities in the local area.²⁹ An amount will be paid into this fund periodically and distribution of this fund will be managed either by a third party or a group established by the local community. In some cases the community benefit is spread across different initiatives. At Achany wind farm in Sutherland, an apprentice scheme for local residents has been established with local businesses.³⁰ This initiative provides 4 apprenticeships for 2-3 years with a level of funding for up to £12,000 per annum. This is currently a pilot scheme but if successful may continue to be used throughout the lifetime of the wind farm.

It is specifically stated in the Scottish Planning Policy (SPP)³¹ that financial payment shall not be linked to the obtaining of planning consent and that planning officers shall have no involvement in the negotiation of community benefit payment. In reality every developer is expected to sign up to community benefit. This is evident in the planning policies and guidance of many local authorities in Scotland. For example, Highland Council has established £5,000 per Megawatt as a standard expected payment from the developer³² to a community benefit fund. An amount being paid per MW per annum seems to be the most common method of payment, however it is also possible for a lump sum or variable annual payment. These payments are made annually for the duration of the lifetime of the wind farm.

In Dumfries & Galloway for example any community benefit agreement requires 50% of this money going to local community projects and 50% going into a central fund held and distributed by Dumfries & Galloway Council.³³ The aim of the central fund is to provide Dumfries & Galloway-wide community benefits, however details of how this fund is spent are largely unavailable.

In Scotland there has now been a register established which states the amount of money per megawatt that has been agreed with the local community for each project in Scotland.³⁴ This allows for more transparency within the industry and is designed to assist local communities when negotiating with developers. Although this is a voluntary scheme there are already over 100 renewable energy project community benefit packages registered. There is no national planning policy relating to community benefit, however the Scottish Government has commissioned a report for the use of local communities in relation to community benefit from renewable energy developments.³⁵ This document also highlights the fact that although there is no legal obligation to establish a community benefit payment, it is the norm and almost every developer will do this.

South of the border it would appear as though the UK Government is likely to adopt a similar strategy to that of Highland Council. The UK Government has been consulting on a standardised amount of community benefit. At the moment £1000 per MW is regarded as acceptable however the industry body Renewable UK has agreed to see a five-fold increase to make this £5000 per MW in line with what is becoming the norm in Scotland.³⁶

One issue which has been experienced in parts of rural Scotland is that communities are beginning to find that due to the amount of money that they are receiving that they do not actually have projects which fall within the set parameters that they can spend the money on. Therefore it is important that developers and communities work together to achieve an agreement which will successfully benefit the community. Developers typically set up Community Benefit Funds into which they pay funds, often a fixed amount per megawatt of installed capacity, to be used for the benefit of the local community.

²⁵ Planning Advice Note 68: Design Statements, 2003.

²⁶ 4.81 Scottish Planning Series Circular 2009: Development Management Procedures

²⁷ Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011, Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 [as amended]

²⁸ Planning Advice Note 47: Community Councils and Planning, Planning Advice Note 3/2010: Community Engagement

²⁹ **TCI Renewables. 2013.** "Greenlaw Football Club makes the right pitch for £150k of wind farm funding" Available at: http://www.rumbletonrigwindfarm.com/images/TCIR/Greenlaw_fc_press%20release.pdf (Last Accessed 07/06/2013)

³⁰ Supra note 11.

³¹ Supra note 5.

³² **Highland Council. December 2011.** *Community Benefit Policy*. Available at:

<http://www.highland.gov.uk/NR/rdonlyres/3F804E15-AB75-4FE4-84A2-E5D142A7C7C4/0/CBPolicyfinal.pdf> (Last accessed 04/06/2013)

³³ **Dumfries & Galloway Council. 2011.** *Windfarm Community Benefits- Revised Approach 2011*. Available at:

<http://www.dumgal.gov.uk/CHttpHandler.ashx?id=8764&p=0> (Last accessed 05/06/2013)

³⁴ <http://www.communityenergyscotland.org.uk/register> (Last accessed 04/06/2013)

³⁵ **Community Energy Scotland Limited. 2011.** *Community Renewable Energy Toolkit*. Available at:

<http://www.scotland.gov.uk/Resource/Doc/917/0115761.pdf> (Last accessed 05/06/2013)

³⁶ **Renewable UK. 6 June 2013.** *Onshore wind industry responds to new Government guidance on local community engagement and benefit funds*. Available at: <http://www.renewableuk.com/en/news/press-releases.cfm/2013-06-06-onshore-wind-industry-responds-to-new-government-guidance-on-local-community-engagement-and-benefit-funds> (Last Accessed 06/06/2013)