

**Welsh Local Government Association
Written Submission to the
Commission for Justice's Call for Evidence
June 2018**

Introduction

The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities and the three fire and rescue authorities are associate members.

The WLGA is a politically led cross-party organisation, with the leaders from all local authorities determining policy through the Executive Board and the wider WLGA Council. The WLGA also appoints senior members as Spokespersons and Deputy Spokespersons to provide a national lead on policy matters on behalf of local government.

The WLGA works closely with and is often advised by professional advisors and professional associations from local government, however, the WLGA is the representative body for local government and provides the collective, political voice of local government in Wales.

The key themes in this response have been endorsed by the WLGA Executive Board and the full response has been approved by the WLGA Spokesperson for Community Safety.

1. What is working well in the justice system in Wales? What is not working well? Are there examples of innovation and good practice, both in and beyond Wales, which should be adopted and shared?

The geographical size of Wales necessitates effective and positive partnerships and relationships to exist between many organisations, both those within and those with ties to the justice system, and with devolved and non-devolved bodies. In general, these relationships are long established and help ensure there is on-going dialogue and communication about priority areas of work, new developments and opportunities to work together on shared agendas.

Local authorities interact and work closely with all aspects of the justice system, for example: with police, youth justice agencies, and probation services through Community Safety Partnerships, Youth Offending Teams and other forums on a range of issues such as community safety, crime prevention, reduction and detection, preventative and diversionary services and reducing re-offending; social service departments work closely with the family court system; trading standards departments work with the police and criminal courts; and housing departments work with prisons and probation in terms of prisoners release.

No single public body can work in isolation and often priorities are shared or require the active contribution of another body for success. Partnership working works well in Wales and there are many good examples where justice bodies and public sector bodies have worked together to achieve positive outcomes and this should be built upon. However, progress can be hindered when policy agendas between the UK and Welsh Governments do not fully align or the impact of new policies on devolved public services, albeit the issues may be a reserved matter, have not been taken into account in terms of successful implementation and delivery. This can leave organisations unclear on the direction of travel, whether funding is available for Welsh devolved bodies or to whom they have accountability as it is a shared agenda between UK and Welsh Government, for example, the violence against women agenda and legislative requirements.

The WLGA is also supportive of the work being undertaken on restorative justice and are encouraged by the positive outcomes being achieved, with between a 7-45% reduction in reoffending and would wish to see such approaches expanded.

2. What are the economic, social, geographical, technological, constitutional and other barriers to improvement and how could these be overcome?

The devolution settlement can cause some challenges, uncertainties and difficulties for both devolved and non-devolved bodies who must either seek to interpret how UK Government strategies and policies apply to them and/or how they can implement and follow directions from the UK Government within a devolved and possibly different policy context. The WLGA has long-argued that in order to improve this situation there needs to be closer and more timely joint-working at the UK and Welsh Government level. There also needs to be a better understanding of devolution by UK Government departments.

The significant cuts to the funding of Community Safety Partnerships, primarily from the Home Office, and the reduction in funding to constituent partners during this prolonged period of austerity has negatively impacted on the capacity of partnerships and their membership to operate at the same level prior to annual reductions in funding.

3. What problems face the people who work within the justice system in Wales (including policing, prosecution, courts, prisons and probation) and the people who are affected by it?

Her Majesty's Prison and Probation Service (HMPPS) is currently facing a number of challenges, for example, Cardiff Prison has recently been the subject of a report on extensive drug use and Swansea Prison has recently received a poor inspection report. Many parts of the justice system have been negatively affected by austerity with the closure of local courts, reductions in staffing numbers and all organisations under pressure to 'deliver more with less'. These cuts in funding have been experienced across public services and has impacted upon the opportunities for

partnership and jointly funded initiatives although some initiatives have continued due to prioritisation and the positive outcomes achieved.

There is currently no women's prison in Wales and therefore women who receive custodial sentences are required to serve their sentence elsewhere in the UK, which is more often than not a considerable distance from family and support networks, which makes visiting much harder and more expensive and could negatively impact on their return to family or reintegration into the local community more difficult on their release.

4. Does the justice system in Wales currently provide access to all who require its services, including advice? How would you improve access to justice in Wales?

The nature of the geography of Wales means that it can be difficult for some to access public services, including justice related services, particularly for those in rural areas. The impact of austerity has led to some local court closures and movement of services to larger centres, an issue of concern to many local councillors and their communities. While this may make sense economically, it has reduced the ease of access to justice as public transport does not always best serve rural areas and their ability to access services. More innovative thinking is required to ensure appropriate access to services in rural areas including sharing buildings to share costs, 'travelling' courts and increased outreach however in many cases the limited funding available affects potential options.

Changes and reduction in access to legal aid have also had a significant negative impact on the ability of some people to seek redress and access justice.

5. What impact has devolution had on the justice system in Wales? What impact do you believe devolution will have in the future?

Devolution has caused some tangible challenges for the justice system in Wales and it is to the credit of those working across devolved and non-devolved bodies that based on positive relationships, people have 'made the system work.' Devolution has resulted in less clear policy development at a UK national level as the impact of devolution is often not taken into account and advice/guidance produced usually only reflects the English context, leaving staff to make sense of the guidance in a Welsh context. This can result in some uncertainty for both devolved and non-devolved bodies operating in a devolved nation. Often, UK Government policy is developed and implemented without sufficient consideration of the devolved status of a number of policy areas in Wales e.g. social services, education, children's services, and health.

As previously stated, devolution has already resulted in some difficulty and confusion in terms of policy development and delivery. As Wales introduces new legislation, it is possible that the difficulties encountered to date will continue and perhaps increase unless steps are taken to address this. Part of the difficulties being

experienced since devolution also informed the WLGA previous position in supporting the devolution of policing and youth justice.

It would also be interesting to assess the impact of increased devolution of some of the justice system and whether there are any lessons to be learnt from England, for example, Manchester where more powers are devolved across different areas to enable a more joined up local approach, addressing local priorities.

6. Could local authority services in relation to justice and the local provision of legal advice be better organised and co-ordinated with policing, prosecution, courts, prisons and probation?

In terms of the range of local authority services that can come into contact with the justice system, it would be fair to say that relationships with the police, prosecution and courts is generally good, this is primarily down to local working arrangements and effective working relationships. The police are often members of key strategic planning boards at the local level, for example, Public Service Boards but rarely other agencies. Other forums engage with other aspects of the justice system, for example, probation and youth justice in terms of Supporting People, emergency planning on local CONTEST boards but there are always areas where better organisation, communication and coordination could lead to improved working and outcomes for the public.

Welsh local government has in the past supported the devolution of policing and the youth justice system as we believe this would lead to better alignment of agendas and priorities, avoid confusion caused by policy areas straddling devolved and non-devolved areas and lead to clearer accountability for citizens.

7. Are there changes that should be made to the capabilities and effectiveness of the ways in which the police, probation and prisons approach their tasks? What should be done to increase community safety, wellbeing and social cohesion and reduce crime? What can be learnt from other countries where rates of crime and imprisonment are lower?

The WLGA would argue that in order to increase community safety, well-being, social cohesion and reduce crime, organisations need to work far more seamlessly together and in a holistic manner, addressing a range of issues that can affect people's lives and their engagement with the justice system. Welsh public services are increasingly adopting a more preventative and/or early intervention approach to tackle issues at an early stage, addressing issues of well-being (and to help manage and reduce future demand on services) and it would be helpful for our partner bodies to operate along similar lines. The ACEs work being undertaken in Wales by the police, in partnership with others, is a good example of working differently to address issues through a different lens.

The recent Review of Community Safety working in Wales undertaken by Welsh Government which reported in December 2017 would also be a useful resource for the Commission to review in this area.

8. What impact is the divergence between Welsh and English law having upon sentencing? What impact do you foresee in the future? Should Wales implement a different approach to sentencing than England? If yes, what lessons can be learnt from other jurisdictions?

The divergence between Welsh and English law may not have had a great deal of impact on sentencing to date. However, there is scope for divergence in the future as the National Assembly introduce more legislation that is required to be upheld by the Courts. A current and relevant matter where the law may diverge between Wales and England is Welsh Government's consultation on their intention to remove the defence of reasonable punishment in relation to children and young people. Differences in the law between England and Wales are also likely to have an increased impact on the people who work within the justice system as they will need to be aware of and sensitive to the potential for differing legislation.

9. What are the capabilities in the justice system in Wales for responding to Brexit?

It is difficult to assess the capabilities within the justice system in Wales to respond to Brexit without knowing what successor arrangements will be put in place to replace existing EU arrangements, if and where necessary, and whether they will be undertaken at a UK or devolved level. If, for example, no agreement is reached on a Withdrawal Agreement, and no successor arrangements are in place, there would be increased pressures and workload due to loss of access to key EU wide databases.

If those areas where local authorities will be responsible for regulating powers are returned from the EU it will be vital that they are involved in determining all the necessary legislative arrangements required to enable them to carry out their new duties, be that at a UK or Wales level.

10. What steps do you think need to be taken to facilitate positive change in the justice system in Wales?

In the short-term, there needs to be better understanding of the devolution settlement and its implications by UK Government departments and increased communication at an early stage of policy development to better align delivery within a devolved context. In the longer-term, there should be full consideration of the potential to devolve responsibility for the justice system to Wales however it must be on the basis of full funding and an appropriate transition plan and timetable to not destabilise the system.

There also needs to be an increased focus on prevention of offending and re-offending for both adults as well as children and young people to achieve better outcomes and reduced demand for more costly interventions at later stages.

13. What is the current provision for the Welsh language within the justice system and legal education in Wales? How should Welsh language provision within the justice system and legal education in Wales be improved?

While we cannot comment on the current provision for the Welsh language within the justice system, the WLGA is supportive of Welsh Government's approach to the Welsh Language and in increasing its usage across Wales, including its target of creating 1 million Welsh speakers by 2050. We are supportive of their current position on the language, the Welsh Language Standards and increasing the use of Welsh in the delivery of public services in Wales. However, the UK Government does not work to the same standards in relation to Welsh language as devolved services and there is sometimes divergence between the requirements of the Standard and information not made available in the Welsh language although language choice would mean receiving information in Welsh. Although improvements have been made, further progress is still required and having the justice system working within and to the same Welsh Language Standards as their partners would be helpful.