

## Submission to the Commission on Justice in Wales

The Well-being of Future Generations (Wales) Act 2015 is a bold and ambitious piece of legislation unique to Wales.

It changes the substance of the law in Wales and demands different behaviours from the public bodies listed within the Act. It relates to existing functions and must be applied across the different redress mechanisms.

The Act seeks to change the way we think and it is essential that public bodies implement not only the letter but also the spirit of the Act, and that they do not respond to the Act in a tick box compliance exercise.

As Future Generations Commissioner and guardian of future generations, I want to prevent people from viewing the Act as just another piece of environmental legislation, but as the catalyst for culture change within the public sector. It's about investing now in the future of our children, grand-children and great grand-children.

I am keen to highlight the exceptional opportunity the Act provides for the Commission on Justice in Wales ("the Justice Commission") in their potential design a different or distinct justice system specifically tailored to respond to the needs of Wales which would benefit Welsh citizens and communities of today and of the future. I believe that the Act's aims and ways of working should become the foundations to any sustainable justice system applying in Wales.

There is a multitude of ways in which a sustainable justice system could be designed and run in ways that would contribute to the vision set out in the Act. And I will set out some examples of big and small initiatives which I believe would accord with the sustainable development principle and would contribute to the improvement of the economic, social, environmental and cultural well-being of Wales.

The sustainable development principle notes that public bodies must act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. This principle should apply to any justice service's design, as well as its operation. The Justice Commission should bear in mind the well-being of both the service users (victims and offenders, etc.) and the professionals working across the whole the justice sector.

The Act provides a set of seven well-being goals which present a full picture of economic, social, environmental and cultural well-being for the Wales we want. The Act also provides for better decision-making using the five ways of working to: take account of the long-term, help to prevent problems occurring or getting worse, take an integrated and collaborative approach, and consider and involve a diverse range of people.

I will set out in this submission examples of how a sustainable justice system could contribute to the seven well-being goals as well as the Justice Commission itself. Any recommendations the Justice Commission makes should encourage these types of practice and take great care not to deter them. Both the Justice Commission and any future system should use the five ways of working to develop a new and innovative justice system which puts an

emphasis on prevention and long-term solutions, as opposed to having a reactionary approach to issues and using short-term fixes.

I have also designed a [Future Generations Framework](#) to support public bodies to take sustainable decisions which would be useful to the justice professionals. I would also encourage the Justice Commission to consider it in its work my [Framework for service design](#) as it will provide further examples and ideas on how the Act could be used.

I have no doubt that the Justice Commission will identify beneficial ways to improve the current single jurisdiction in England and Wales for the benefit of both current and future generations in Wales. Finally, I thought I would describe the qualities I believe a sustainable justice system should have to be truly sustainable in accordance with the Act and provide examples of good practice I have identified.

The Justice Commission has a fundamental role to play in promoting sustainable development. Any new justice system for Wales should demonstrate how it is applying the five ways of working within the Wellbeing of Future Generations Act as well as considering how it can contribute to the seven well-being goals.

## Five Ways of Working

**Long-term** - The Act promotes a balanced decision-making which considers the long-term needs as opposed to focusing only on short-term solutions and immediate fixes.

It should be a fundamental principle for a justice system to consider the long-term impact of the approaches it takes, both on the justice systems itself, on wider public services and on individuals. It is important that future trends are considered

The rise of new trends such as legal technology and automation must not be overlooked. Whilst such trends may sometimes be viewed as a threat to the legal profession, they also present unique opportunities for tackling issues such as access to justice and providing alternatives to imprisonment for low-level offences. For example, electronic monitoring and heavy surveillance at home could be considered as viable options to imprisonment in this context. This could also be an important prevention strategy as discussed below.

Technology has the potential to provide easier access to justice, while at the same time decreasing court workload. There are already examples of good practice, including projects such as the Matterhorn Court Innovation project (the US) which provide online dispute resolution platforms in cases where representation is not strictly necessary. Videoconferencing is another trend that has emerged in particular in the US, where courts sometimes hold brief video hearings with imprisoned individuals thus saving both time and travel costs for transportation as well as carbon emissions.

It may be beneficial for the justice system to place an emphasis on the long-term aspects of rehabilitation - breaking the negative cycle that many offenders find themselves in. For example, a homeless offender with substance abuse issues is less likely to be rehabilitated by imprisonment only. When such offenders are released, they are still

homeless and their addiction could easily relapse in such environment, thus making them more likely to re-offending. The Justice Commission has the unique opportunity to design a new system that takes these issues into account. It should do so by working in collaboration with other public bodies and third sector organisations in order to design a system that looks at the long-term aspect of the administration of justice.

However, alongside recognising technological trends, a justice system in Wales must also consider the long-term impact of its approach on other public services and individuals. The system must take into account how it can make a positive impact on the reducing demand in the long-term and putting in place the interventions which will support rehabilitation recognising that this is not just important for current generations but will also be important in terms of breaking intergenerational cycles of poverty and offending and reducing future demand on services. sis a good example of a project that looks beyond the short-term needs of women in prison but tries to come up with solutions for their long-term reintegration into society.

**Prevention** - When thinking about prevention, it is important to note the distinction between the different layers of prevention: primary prevention, secondary prevention and tertiary prevention. Primary prevention is relevant in the context of a sustainable justice system, which relates to preventing something from happening before it has even occurred. The best way to achieve primary prevention would be to tackle the causes of crime such as adverse childhood experiences (ACEs). There are programmes, such as the ACEs Hub which aims to break the cycle of ACEs already in place in Wales. The justice system should recognise the impact of ACEs, mental health conditions and trauma and should aim to take a trauma informed approach to delivering its services. A justice system should explore all the evidence on what works to prevent offending and reoffending and demonstrate that there is a focus on embedding what works within the system in Wales.

**Involvement** - Ensuring that people are involved in decision-making that will affect them is essential to making informed decisions based on people's live experiences and their needs. The effectiveness of decisions already in place, as well as the potential impacts of future projects and proposals, on those affected by them could be measured through different user-engagement approaches, such as consultations involving ex-offenders and prison councils like User Voice. The designing of a sustainable justice system could benefit from the ideas and experiences of people employed or volunteering within the justice sector as they can provide insight into both the big systemic issues and the day-to-day difficulties they encounter in their practice. Wide involvement (which is different from consultation) would help not only with understanding where the issues with the system lay but could also provide insight into some of the causes of offending. Engagement exercises beyond consultation could help the Commission understand the underlying roots of the problems they are trying to address, which could, in turn, be used in their work on prevention.

**Collaboration** - Acting in collaboration with other public bodies, as well as third sector organisations such as the ones mentioned above is vital to sustainable law and order in Wales. The issues we all face are so wide and deep that no organisation can solve on their own. This also applies to justice. Considering alternative collaborative arrangements would also enable the Commission and a new justice system to further develop their work on the other ways of working. Wales' Women Pathfinder, which brings together existing services such as domestic abuse support, drug abuse agencies and housing, is a positive example of a collaborative project that focuses on

prevention and long-term solutions. We would need this type of work across many of the areas relevant to the administration of justice and the prevention of crime.

**Integration** – It is important that the different branches of justice and prevention do not work in siloes. Collaboration with other bodies and organisations who play a part both in responding to offending and preventing them in the first place is fundamental. Such an approach would also enable any duplication to be removed -which is particularly important in a climate of reduced funding across the public sector. The justice system must recognise the factors which contribute to people coming into the system including issues such as mental health domestic violence, poor housing and trauma during childhood. In a report recently commissioned by the Welsh Government the problems with current services for rough sleepers had a clear impact on the justice system – of the 108 people interviewed, only 2 said they wanted to live in a homeless hostel and in two of the focus groups the consensus was that people would prefer to be in prison than in a hostel citing the chaotic environment poor quality accommodation and limited opportunities for moving on as key reasons.

It is therefore essential that a justice system takes an integrated approach, working with other sectors and services to address some of the underlying causes of offending. By taking an integrated approach when designing a sustainable justice system, the Justice Commission would be able to ensure that any new justice system contributes to the whole holistic concept of well-being in Wales and its four pillars: cultural, environmental, social and economic. A cross-cutting approach, which distinguishes between the devolved and non-devolved aspects of the justice system is needed and focusing on the levers for prevention of crime and rehabilitation which are currently devolved could be useful for the Commission's work and could enable different organisations to maximise their contribution to the 7 well-being goals.

## Contributing to the Seven Well-Being Goals

The Act includes seven well-being goals which set out a vision for the Wales we want. Key public bodies are required to demonstrate how they are maximising their contribution to the seven goals. It is important to note that each public body has a duty to contribute to all the goals (not just the goals most obvious to their organisation) and these principles should also apply to the justice system in Wales.

The Act sets out in section 4 a description of each of the seven well-being goals. Each goal, therefore, is specifically defined under the Act. It is important that these specific definitions are used – I have already seen examples of attempts to redefine them and must insist the legal definitions, as set out in Appendix 1, are considered.

My Future Generations Framework provides an overview of the issues that public bodies and systems should be considering in respect of the goals and there are clearly issues here which a justice system in Wales should be contributing to, for example:

- Considering carbon emissions from estates and services with a view to reducing them in order to meet carbon reduction targets;

- The extent to which the justice system can contribute to providing access to skills for offenders and focus on supporting skills development opportunities for those at risk of offending;
- How the justice system considers and responds to promoting good physical and mental health;
- The extent to which the justice system promotes a more equal Wales both in terms of recognising and responding to disproportionate impacts on different groups, recognising different types of services which may be required by different groups and a commitment to ensuring that the system itself is reflective of the communities it serves at all levels. In addition, a coherent plan to address disproportionate access to justice must be considering including provision for a free or affordable legal advice;
- Rehabilitation is an important aspect of a sustainable and thriving society. A new justice system needs to ensure that offenders can be reintegrated into society and benefit their communities. Restorative approaches play a key part in this but consideration should also be given to how the justice system can encourage better connected communities both in the way it delivers its services and in terms of how it works with partners to do so. Reinforcing links between communities is another important aspect of this goal;
- Another way to contribute towards a more cohesive Wales is through restorative justice programmes and/or projects that focus on targeting groups at risk of offending with a preventative aim;
- How the justice system can enhance culture and promote the Welsh language. Consideration should be given to how arts, language, education and sporting initiatives for offenders and those at risk of offending could provide diversionary activities, support rehabilitation and encourage community cohesion;
- Striving for global responsibility and well-being is the aim of the last goal. There are many small steps that a sustainable justice system could take to contribute towards this goal. Ethical procurement of uniforms, robes and food is one way of promoting global responsibility. Encouraging digitalisation and paperless system in courts, law firms and other organisations in the justice system is another sustainable way to improve the well-being of Wales. The Legal Sustainability Alliance is a movement of law firms committed to improving environmental sustainability which the Commission should consider in its work.

I hope that the explanation and examples I have given in this submission will help the Justice Commission to think differently and sustainably within the spirit of the Well-Being of Future Generations Act. I hope to have inspired you to innovate and recommend profoundly different solutions to the current (and future) issues you are considering. I urge you when designing a sustainable justice system fit for a devolved Wales that you use the concepts contained in the Act to ensure such system is also beneficial for future generations.

The Justice Commission should take every opportunity to contribute to the 7 well-being goals. The Justice Commission should use the five ways of working but also ensure that all parts of the justice system it designs are committed to contributing towards achieving the vision of the Act. I look forward to the conclusions of your work which I will consider with interest.

## APPENDIX:

### Appendix 1: Well-being Goals

Goal	Description of the goal
A prosperous Wales.	An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.
A resilient Wales.	A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).
A healthier Wales	A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.
A more equal Wales.	A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio economic background and circumstances).
A Wales of cohesive communities.	Attractive, viable, safe and well-connected communities.
A Wales of vibrant culture and thriving Welsh language.	A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.
A globally responsible Wales.	A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.