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Prison Leavers and Homelessness

There are a number of challenges that arise in relation to the non-devolved nature of criminal justice matter to Wales. Here, we refer to one instance where this had had a negative impact on the policy aims of the Welsh Government.

The 2010 Green Paper, *Breaking the Cycle*, (Ministry of Justice, 2010) heralded what was described as a new approach to tackling re-offending. It included a commitment to tackle what were considered to be barriers to rehabilitation and led to the publication of *Transforming Rehabilitation: A Strategy for Reform* (Ministry of Justice, 2013b). Subsequent to this the Offender Rehabilitation Act 2014 introduced changes to the way offenders would be supervised in custody and in the community. In June 2014 the Ministry of Justice split the existing 35 Probation Trusts into a public sector National Probation Service (NPS) and 21 new Community Rehabilitation Companies (CRCs). The NPS responsibilities were redefined so that its staff would advise courts on sentencing and manage those offenders who present a high risk of serious harm to others (or were MAPPA nominals). CRCs would supervise all other offenders who were assessed as being at low or medium risk of harm to others.

CRCs were in public ownership until February 2015 when, following a procurement exercise, they were transferred to eight private sector providers working under contract to the National Offender Management Service. Whereas prior to the ORA 2014 prisoners sentenced to under 12 months in custody were not eligible for post-release supervision, the Act extended such supervision to those serving sentences of over one day. This increased by an estimated 45,000 offenders per year, the numbers of prison leavers eligible for post release supervision (House of Commons, 2016).

CRCs were also contracted to undertake resettlement work at prisons within their catchment areas. To facilitate such "Through the Gate" (TTG) services, 70 of the 123 prisons in England and Wales were designated as resettlement prisons. The intention was that in the last three months before release, prisoners would be transferred to the resettlement prison in their local area and pre-release support and supervision arrangements would be developed from there (HMIP, 2017). Activity would be focussed on the seven pathways to Reducing Re-Offending established by the Government's Reducing Re-offending National Action Plan: substance misuse; thinking attitudes and behaviours; relationships and family; offending behaviour; finance and debt; employment, training and

education; and finally accommodation (Home Office, 2004). The CRC contracts included a set fee payment with the possibility of additional payments were providers could show their activities had a dampening effect on reoffending.

Here, we would wish to focus on the work of the CRC in relation to meeting the accommodation needs of prison leavers in light of the passing of the Wales (Housing) Act in 2015. This act heralded a more preventative and person-focussed approach to homelessness. It placed new duties on Welsh local authorities to 'help to prevent' or 'help to secure' accommodation in all cases a person/household threatened with, or finds themselves homeless. Such help should be provided for 56 days (either prior too or following on homelessness) and, unlike the situation prior to the act, the help is not conditional on having priority need status, being unintentionally homeless or having a local connection. Under new arrangements, such factors are only relevant at the point where the provision of emergency accommodation or final duties are being considered.

The act applies with equal force to prison leavers. Accordingly the Housing (Wales) Act removed the automatic priority need status previously conferred on all prison leavers in Wales. It was anticipated that approximately 70% of those prisoners who had previously been entitled to a housing duty would no longer be eligible for those duties (Welsh Local Government Association, 2014). However, a greater focus on preventing homelessness was considered to obviate the need for prison leavers to continue to enjoy advance standing for accommodation.

Cognisant of changes in Housing and Offender Rehabilitation law, the National Pathway for Homelessness Services to Children, Young People and Adults in the Secure Estate' was developed. The National Pathway seeks to consolidate existing processes for providing services to prisoners with housing related needs and describes the systems for managing communication and relations between the agencies providing relevant services. Development and implementation of the National Pathway in relation to adults was led by Welsh Government but with significant engagement from the National Offender Management Service in Wales (now renamed HPPS Wales); the Welsh Local Government Association and 'Working Links'- the Wales Community Rehabilitation Company.

Key aspects of the National Pathway include designated tasks allocated to particular agencies at key points in a prisoner's journey through custody and back into the community. Welsh Government made funding available to support prison leavers during a 12 month transitional phase and whilst the National Pathway was being implemented (transitional funding is currently extended to 2018). This funding was intended to cover emergency support, including the cost of short term accommodation, for some prison leavers. It was also intended to provide further security of temporary accommodation for those who would not have had access to prevention services prior to the commencement of the Act and would have lost priority need – i.e. those released in the weeks after commencement.

Unfortunately, Welsh Government's intentions with regards to prison leavers and addressing homelessness appears to be unfulfilled and this is in part due to the fact that contractual expectations in relation to CRC performance is centrally managed from Westminster, whilst housing matters are managed from Cardiff. CRC delivery contracts do not seem to have included or considered the additional work required in Wales to implement a preventative approach to housing with prison leavers. Accordingly much of the work to prevent those entering prison from losing accommodation is funded by Welsh Government and performed by 'Prison Link Cymru' staff funded

from the Homelessness Prevention Grant. In addition, the additional work required with Welsh prisoners placed in English prisons e.g. Altcourse is also Welsh Government funded from the same grant. One concern with such arrangements is that public money in Wales is used to fund practices that could have a direct positive impact on CRC revenue streams. It increases the number of people involved with a prison leaver, and the complexities of information sharing and multi-agency working in the resettlement processes for them.

Recently the contractual arrangements associated with delivering TTG services have been criticised. Lower than expected numbers of people have been subject to CRC supervision and, because CRCs are funded on the basis of the numbers of people they supervise, this has impacted on their revenue streams. Reduced revenue has limited the ability and/or willingness of CRCs to invest and fund anything other than activities that enable them to meet their contractually obligated minimum standards (House of Commons 2016). Innovation in TTG activity by CRCs was initially incentivised. This was because in addition to payments associated with contract compliance, additional 'payment by results' would follow where a CRC could show its activities had the effect of reducing reoffending. However, because revenue streams have reduced and proving impact in this area is difficult, TTG activities have been focussed on completing some tasks and not others and referral to local authority housing seems to be emerging as one such task.

In a report published in October 2016 and focusing on prisoners serving under 12 months (mainly CRC cases) HMI Probation and HMI Prison suggested that in relation to 4 prisons they inspected (one of which was Wales) not enough was being done to address accommodation needs. It was suggested:

Prisoners did not know who would help them, what that help would consist of, and when they would know what had been done. Many of the referrals made were standard applications to local housing departments. These had little likelihood of any accommodation being secured before release. Prisoners released to areas not covered by the specific CRC in the prison received even less help. We did not see any innovative work by CRCs to make access to accommodation easier. Some bids that CRCs made before getting their contracts proposed schemes such as funding rent deposits or other short-term assistance, but we did not see this in operation (Criminal Justice Joint Inspection, 2016, p.22).

Conversely, in the last 24 months, HMI Prisons have referred more positively to the efforts made to meet the housing needs of the prison population in HMP Cardiff, HMP and YOI Parc and HMP Swansea (Her Majesty's Inspectorate of Prisons 2016a, 2016b, 2017). In the inspection report on HMP Cardiff, it was commented that:

Prisoners with housing issues were dealt with quickly. Accommodation services were good and included maintaining and surrendering tenancies, housing benefit and applications for accommodation before release (Her Majesty's Inspectorate of Prisons, 2016a, p.16).

In relation to Swansea, it was suggested that

Prisoners had reasonable access to a group of valued peer advisers. Peer advisers worked effectively to support prisoners towards resettlement, especially in signposting to housing and other services (Her Majesty's Inspectorate of Prisons, 2017, p.50)

However, of note here is that the activities being commended in HMP Cardiff and HMP Swansea are those performed by WG funded PLC staff and peers. Contrary to what HMIP suggest, we would argue considerable weaknesses will adhere to a process whereby housing applications, which may involve prison leavers having to refer to matters of vulnerability, are undertaken by peers.

To summarise: Setting aside the rather obvious point that it is not at all clear that were matter to be devolved, WG would have embarked on a policy of privatising aspects of probation work, The Housing (Wales) Act was intended to change the relationship between local authorities and prison leavers who are homeless or threatened with homelessness by promoting a partnership approach to addressing homelessness. CRC delivery contracts, organised from Westminster, were not obviously sensitive to this intention and so the contractual arrangement necessary to sustain the necessary activity seems not to have been factored into CRC expectations. Accordingly some of the necessary work is funded separately by WG. Some of it seems inappropriately undertaken by prisoners themselves. WG funded activity directly assists private organisations to meet performance related targets.

Welsh language

Further devolution of criminal justice matters to Wales should be associated with a renewed commitment to Welsh language services. It is pretty well established that notwithstanding some provision being made for Welsh speakers in the criminal justice system, the take up of Welsh language service is minimal and this is at least in part a function of the way choice is offered. Research and reports into Welsh language use in health settings (for example by Misell, 2000; Cwmni Iaith, 2002; Roberts et al, 2007) social care settings (for example Lindsay et al, 2002; Davies, 2008) and in criminal justice settings (Huws, 2006, Rooney, 2007, Jones and Eaves, 2008) have suggested Welsh language services are rarely used. This non-use is commonly understood to arise as a function of the unavailability and/or inaccessibility of Welsh speaking service providers or because electing to use the Welsh language is a choice encumbered by the low status historically associated with that language (for example Cwmni iaith, 2002; Pugh and Williams, 2010). Non-use of a minority language in these contexts is problematic because some minority language speakers may face discriminatory treatment as a result (Misell, 2000; Roberts, 2005). Moreover because giving voice to a threatened language in high prestige contexts is deemed necessary to revive or sustain a minority language (Fishman, 2001). Minority language use in high prestige contexts is associated with a number of policies and practices. Specifically those where the language has high visibility, electing to use the minority language is not associated with delays, supporting literature is available in the minority language and sufficient staff members in a particular context can speak the minority language. The principle of there being an active offer was integral to 'more than just words'.

North East Wales

Further devolution of criminal justice matters to Wales should be sensitive to the concerns of North East Wales. North East Wales is one of the most deprived areas in Wales and here voter turnout in Welsh Government elections is below the Welsh national average. Here we argue these underpin and evidence a lesser affinity in the area with the trajectory of 'Welsh Government' which is understood as not focussed on the concerns of North East Wales as compared to South Wales. Here, the perception remains that further devolution of powers e.g. over criminal justice matters to Wales would be of little or no direct benefit or significance to the vast majority of the population. Indeed it would likely be perceived as another attempt to concentrate and crystallise power in Cardiff and primarily for the benefit of, and to address the concerns of, political and business elites in that area.

More practically, many business and criminal justice related concerns in north Wales link not to matters relevant in South Wales, but to events and developments across the border and in North West England. Cross border crime is a significant issue which is primarily dealt with by way of joint working between the North Wales Police service area and the service areas of Manchester, Cheshire and Merseyside. Where further devolution of power would undermine the possibilities of such cross border co-operation, concerns would arise about the ability of the police to respond to cross border crime trends such as those associated with people trafficking or so called 'county lines' drug supplying.

Substance Use (Alcohol and other drug)

Experiences associated with problematic illegal, illicit and legal drug use are common to the majority of individuals engaged in the criminal justice system (Home Office 2017). As a consequence, it has a significant impact on the workload of the courts, community sentence supervisors, Probation, Police and the Prison Service. These history of policy developments within the UK can be summarised as; introducing control, developing national systems, increasing control and integrating criminal justice/health (Reuter and Stevens 2007). The current position is one of a mixed level of devolved responsibility and activity. This can essentially be understood as principal legislation and criminal justice frameworks as remaining with Westminster and, increasingly since 2000 policy implementation and health and social care delivery as devolved to Wales. Some of the matters reserved to England create difficulties in ensuring smooth and seamless policy and service provision responses and restrict the ability for Wales to fully control the factors that ensure successful strategy implementation (Livingston et al 2018). The differing approaches within a devolved picture, have Wales and Northern Ireland with joint alcohol and drug approaches, but England and Scotland with separate strategic and delivery arms. Critically for this commission, while the establishment of the PCCs has led to a degree of localised commissioning much of the directive framework and performance accountability for criminal justice responses for substances is dictated from the Home Office or Ministry of Justice in Westminster, while the support and treatment responses are referred from Cardiff. Some these difficulties can then be exemplified between the Westminster model that reinforces the principles of 1971 Misuse of Drugs Act and how these can be realigned with the Welsh Governments central Social Services and Wellbeing [Wales] 2014 Act. There is though significant evidence that suggest that the Criminal Justice System can deliver as effective responses to substance misuse as the Social and Health care sectors (Gossop 2015) and that this is likely to be best achieved by integration at policy and practice levels (Davies et al 2016).

Youth custody

Diversions practices have meant that the last ten years have seen a significant decrease in the numbers of young people both entering the youth justice system for the first time and those being held in youth custody. For example, in November 2017, there were 912 children and young people under 18 in a Secure Children's Home (SCH), Secure Training Centre (STC) or Young Offender Institution (YOI). Of this number, 34 of these were from Wales. Of this total population 96% were male; 83% were aged 16- 17; 70% were held in a YOI, 18% in an STC and 12% in a SCH. As of March 2017 there were 21 children from Wales in a SCH.

Notwithstanding the reduction in numbers, it is important to note that England and Wales continues to have the highest rate of child imprisonment in Western Europe. There have been 272 deaths in custody of young people under 21 in England and Wales since 1990, of which 33 were under 17.

There is now a distilled population of young people in the youth justice system and in custody who have complex needs. For example an Inspection by HMI Inspectorate of Probation in October 2017 examined the case files of 115 young people who had committed violent, sexual or other public protection offences and found that three out of four had experienced trauma. Children who have been in local authority care continue to be over represented.

The reduced cohort of young people in custody has meant that the number of custodial establishments has reduced. Consequently children are placed further away from home which is exacerbated in Wales. This causes difficulties for family contact, resettlement and opportunities for mobility or Release on Temporary License. The geographical isolation for young people from rural areas makes ongoing contact with family networks particularly difficult. However, there can also be additional issues of identity, language and discrimination and such issues can have a more severe impact upon children and young people.

Youth Justice Board placement data indicates the following information for the month of December 2017:

- 68% of young people in custody from Southern Wales (along the M4 corridor from Carmarthenshire to Monmouthshire).
- Custodial use tends to be centred around Cardiff, Newport, Blaenau Gwent Caerphilly and Cwm Taff – much less so from Ceredigion, Powys and Pembrokeshire.
- In the period 38% of placements were made to HMP Parc YOI.
- It is worth noting that its catchment area now also includes the South-West of England – about a 50/50 split and a few boys come from other areas as well e.g. placement from the London area. They tend to bring their own issues with them including gang affiliations
- Werrington is the nominated establishment for boys from north Wales - 72% of north Wales placements were in Werrington.

Here the situation for girls is exacerbated. In 2012 Hughes *et al* published an article which drew on a small-scale survey that explored the perceptions and experiences of front line workers and

incarcerated girls¹ from North Wales, which examined the needs of girls from Wales who serve their sentences in England. The YOS and YP respondents identified a number of important issues facing girls from North Wales sentenced or remanded to custody by the courts. Key themes emerging from the responses were: distance and isolation; discrimination; the importance of Welsh language and culture; and the lack of secure provision in Wales.

Housing young people leaving custody has sometimes proved to be a challenge. As a result of being designated 'in need' (a principle restated and clarified in the 2009 Southwark Judgement) young people leaving prison and aged 16 or 17 have been eligible for assistance with housing by Children's Social Care Services. However, the 'Child in need' concept has been repealed in Wales following Social Services and Well-Being Act (SSWBA). Here the focus has moved from welfare need to the more preventative Well-being assessment under part 3 SSWBA and a new definition of vulnerable children has emerged. A vulnerable child is a child who is experiencing or is at risk of abuse, neglect or other kinds of harm and has needs for care and support (whether or not the needs are being met). The focus in Wales following the introduction of the SSWBA has been on the development of preventative services. However, implementation of the act is ongoing and Local Authorities may interpret very differently how part 3 of the Act (the right to an assessment based on the appearance of need for care and support, regardless of the level of need or financial resources) is applied. In this regard there is as yet no developed case law and practice precedence. This also the case within the provision of support under SSWBA part 4, in that Local Authorities are developing eligibility criteria for Care Support Plans, in which a strength based approach is adopted rather than the more traditional deficit model of assessment.

Concerns have been expressed about the urgency with which the welfare needs of children in YOI, STCs and secure children's homes are considered, the quality of the accommodation provided to them on release and especially about the use made of B&BS. For example, in the most recent inspection of YOS work in Wales it was commented

There is a lack of appropriate housing available to vulnerable children and young people in Cwm Taf. This has resulted in inappropriate placements being made in bed and breakfast accommodation (HMIP 2017)

Since February of 2017 Welsh government strengthened its policy on keeping young homeless people out of B&BS in response to the campaign so that policy in this area is arguably the strongest in the UK. In December 2017, the Welsh Government committed itself to eradicating youth homelessness within a decade, announcing that an extra £10million worth of funding would be targeted at the issue in that time frame. However, in 2014, the UK Government launched its 'Transforming Youth Custody' strategy. The strategy has been refined over subsequent iterations and there has been some criticism of a seeming intention to house all young people in fewer larger establishments. HMI Prison have inspected youth offending facilities over the last three years. The 2016 to 2017 Chief Inspector of Prisons Annual Report commented on outcomes, highlighting insufficient safety, high levels of violence, and overuse of force to manage children, as well as the impact of staffing shortages and uncertainty about the future.

