

The Commission on Justice in Wales

Written evidence submitted by the Chief Fire and Rescue Advisor and Inspector for Wales

1. Introduction

1.1. This submission has been prepared in response to a specific request from the Secretariat to the Commission on Justice in Wales.

1.2. When making the request, the Secretariat confirmed that their interest in the role of the Chief Fire and Rescue Advisor and Inspector for Wales (CFRAIW) was linked to a strand of the Commission focused on the role of inspectorates within the criminal justice system. They felt that it may be helpful for the Commissioners to be provided with information regarding an inspectorate that is currently operating in a fully devolved context. In particular, they asked that information be provided in connection with the following:

- i. The scope of the CFRAIW's work;
- ii. How inspections are carried out by the CFRAIW;
- iii. How independence is maintained;
- iv. The benefits and challenges of working as an inspectorate in a smaller jurisdiction; and
- v. Any recommendations or observations that the CFRAIW would make on inspectorates within Wales, from a justice point of view.

2. The Scope of the CFRAIW's work

2.1. The scope of the CFRAIW's inspection work is circumscribed by two specific pieces of legislation. The first is Section 28 of the Fire and Rescue Services Act 2004; and the second, Article 25 of the Regulatory Reform (Fire Safety) Order 2005.

2.2 Section 28 of the Fire and Rescue Services Act 2004 (FRSA)

2.2.1. Under Section 28 of the FRSA, Her Majesty may, by order in Privy Council, appoint inspectors for the purposes of obtaining information as to:

- i. The manner in which fire and rescue authorities [in Wales] are discharging their functions; and
- ii. Technical matters relating to those functions.

2.2.2. Section 28 also allows Welsh ministers to appoint assistant inspectors and other officers to assist the Crown-appointed inspector/s in their role.

2.2.3. There is currently a single, Crown-appointed inspector for Wales, Andrew John Fry (Andy Fry), who was appointed on 27th June 2018 under [Statutory Instrument 2018 No. 782](#).

2.2.4. In addition, Welsh ministers have appointed a single assistant inspector to assist Mr Fry in undertaking the above duties under the FRSA.

2.3 Article 25 of the Regulatory Reform (Fire Safety) Order 2005

2.3.1. By default, Article 25 of the RRO assigns responsibility for enforcing fire safety standards in the majority of premises owned or occupied by the Crown in Wales to a ‘fire inspector’ who is an ‘inspector’ appointed under Section 28 of the FRSA. Alternatively, Welsh ministers can authorise any other person to undertake this role. At present, the role of ‘fire inspector’ is undertaken by Andy Fry.

2.3.2. On the above basis, in summary, the current CFRAIW is responsible for:

- i. Reporting on the performance of the three fire and rescue services in Wales; and
- ii. Enforcing the RRO in Crown premises, to ensure that appropriate fire safety standards are being maintained in government-owned or occupied buildings in Wales.

3. How inspections are carried out by the CFRAIW

3.1 Under Section 28 of the FRSA

3.1.1. As explained above, under the FRSA, the CFRAIW is appointed to obtain information as to:

- i. The manner in which fire and rescue authorities [in Wales] are discharging their functions; and
- ii. Technical matters relating to those functions.

3.1.2. Headline details of the means by which these statutory responsibilities are discharged in practice is set out in the Key Responsibilities section of the CFRAIW’s Job Description. The Job Description does not require the CFRAIW to undertake a programme of formal inspections of fire and rescue services in Wales but, rather, states that the incumbent: “will carry out thematic reviews of Fire and Rescue issues and publish reports and make recommendations.” This sets Wales apart from England, and the devolved administrations in Scotland and Northern Ireland, where formal programmes of fire and rescue service inspection are currently carried out by teams of inspectors using a prescribed and publicly available methodology.

3.1.2. The Thematic Review process provides the CFRAIW with significant flexibility – in terms of the themes on which they focus; their frequency; and the methodology employed in undertaking them. Whilst such flexibility is considered to be helpful in overall terms by the current incumbent, he believes that there should be greater clarity and transparency regarding the methodology employed when deciding upon themes, undertaking the reviews, and publishing associated reports. A project is currently being undertaken to address this.

3.2. Under Article 25 of the RRO

3.2.1. The CFRAIW is responsible for enforcing the RRO in the majority of Crown premises across Wales. This is achieved through an inspection programme managed and delivered by an experienced fire safety officer who is seconded from a fire and rescue service – currently South Wales Fire and Rescue Service.

3.2.2. The inspection programme is undertaken in accordance with a well-established, risk-based methodology. The methodology is intended to ensure that those premises presenting the greatest risk are inspected most frequently. In practice, the majority of Crown premises in Wales are office buildings which present a low risk and, on that basis, are inspected relatively infrequently. Prisons are considered to present the greatest risk and are subject to comparatively frequent inspection.

3.2.2. Where contraventions of the RRO are identified through inspection, the CFRAIW has a number of enforcement mechanisms available, which vary in their level of formality depending on the nature of the contravention/s in question.

4. **How independence is maintained**

4.1. The current CFRAIW is clear that there are two distinct dimensions to his role:

- i. As a Welsh Government official, he is required to fulfil a number of responsibilities which are set out in his Job Description. In relation to these responsibilities, he operates as a conventional government employee, reporting to a line manager and being held to account for his performance.
- ii. As an ‘inspector’ appointed by the monarch under Section 28 of the FRSA, he must operate independently of Welsh Government in discharging his statutory responsibilities and has the freedom to do so by undertaking a programme of Thematic Reviews, over which he has complete autonomy.

5. **The benefits and challenges of working as an inspectorate in a smaller jurisdiction**

5.1. The most significant benefit associated with working as an inspectorate in a smaller jurisdiction is directly linked to scale. The fact that the CFRAIW’s inspection activity is focused on only three fire and rescue services (in contrast to the 45 in England, for example), enables the inspector to build a detailed picture of performance and make associated judgements and recommendations that are set within a specifically-Welsh context. This scenario also means that the CFRAIW is able to build constructive relationships with those governing and managing the fire and rescue services in Wales, enabling inspection activity to be done *with* the services, rather than *to* them.

5.2. The challenges that are faced by the CFRAIW as a result of operating in a smaller jurisdiction can be summarised as follows:

- i. **Capacity** – The CFRAIW team is relatively small. The CFRAIW himself is employed on a part-time, two-days-a-week basis. He is supported by a single, fulltime assistant inspector and a fulltime member of staff who manages and delivers the programme of fire safety inspection in Crown premises. This means that the work of the team needs to be carefully focused to ensure that its limited capacity is being used to greatest effect. Steps are also taken to co-

opt additional capacity for specific areas of activity. For example, arrangements are in place that enable fire safety officers from the three Welsh fire and rescue services to assist with the programme of fire safety inspection in prisons.

- ii. **Resilience** – The fact that the CFRAIW team is small means that each member is, essentially, a potential ‘single-point-of-failure’. This is a risk that needs to be carefully monitored.
- iii. **Breadth of focus** – As a result of the CFRAIW’s core role focusing on only three fire and rescue services in Wales, there is a risk that they will lose sight of the ‘bigger picture’. In this regard, it is particularly important for the incumbent to compare and benchmark the performance of Welsh fire and rescue services with others across the UK and beyond. It is equally important for the CFRAIW to actively monitor the fire and rescue sector for examples of good practice outside Wales, in order to encourage their adoption within the country, where appropriate.

6. Recommendations and Observations

In terms of recommendations and observations, the current CFRAIW is of the view that there are clear and significant advantages associated with having an inspection regime focused specifically on delivery of a key public service in Wales.

In realising these advantages, however, it is important that the risks associated with capacity, resilience and breadth of focus outlined above are addressed.