

Commission on Justice in Wales
Oral Evidence Session
15 March 2019

Present:	Commission members	Secretariat team
Emyr Lewis, Blake Morgan (EL) Chris Nott, Capital Law (CN) Kathryn Roberts, Eversheds Sutherland (KR) Alun Jones, Hugh James (AJ)	Lord Thomas of Cwmgiedd, Chair Simon Davies Professor Elwen Evans QC Dr Nerys Llewelyn Jones Juliet Lyon CBE Professor Rick Rawlings Sir Wyn Williams	Chris James David Slade
Question area: Should there be someone in the Welsh Government with responsibility for justice and policing – executive and legislative competence.		
<ul style="list-style-type: none"> • KR: Clarity about who has responsibility for justice and policing in the Welsh Government is critical. There is currently no clarity. Accountability to someone is right but there needs to be clarity too. • AJ: It's important to work out the benefits it would bring. I can see the point in having responsibility in terms of policing so people can see the link on the ground. In the context of the wider justice system we have and the law of England and Wales, I don't know what the benefit would be given the legal system we have. It makes more sense on policing in terms of accountability as policing affects people in their communities. I think there is a difference in terms of criminal and commercial practice where I can see an argument for the former being the responsibility of a Minister, but I am not sure what impact people will see on the ground in terms of commercial law. • CN: I qualify my answer as I represent a commercial law firm and that is all that we do. I have spent 20 years working for public and private organisations in the sphere of commercial law. I know less about policing and I'm not sure I can comment on that. With that qualification, I think the question turns on what you mean by "responsible". Does it mean "devolved to and wholly responsible for to the exclusion of", or does it mean responsible from a Welsh perspective as part of an integrated system. If the latter then I say "yes", there needs to be someone in the Welsh Government who looks after these matters from a Welsh perspective, as a minimum. 		
<p><i>Sir Wyn Williams referred to the devolved justice system in the form of the Welsh Tribunals and asked if there is a need for a specific accountable Welsh Minister.</i></p>		
<ul style="list-style-type: none"> • CN: The current accountability system is not sufficient. There is someone responsible for it at the moment but it's not sufficiently well known and responsibility is not clear enough. • EL: Wrth ystyried y sefylfa ar hyn o bryd mae yna gyfnudrefn cyfiawnder yn bodoli o fewn y setliad datganoledig oherwydd y Tribiwnlysoedd Cymreig a'r mathau eraill o ddatrys anghydfod neu gyfreithiau meddal sy'n bodoli gyda'r gyfundrefn cynllunio gwlad a thref a'r Comisynyddion. Mae'n rhaid i ni wynebu yr hyn sydd yn digwydd. Mae'r gwahanol feysydd datganoledig fel iechyd a gofal cymdeithasol yn gor-gyffwrdd â'r system cyfiawnder yn feunyddiol. Un o'r bylchau yn y setliad datganoli yw absenoldeb y gyfundrefn cyfiawnder yn y cyd-destun hwwnw. Hyd yn oed os nad yw hynny yn digwydd mae angen atebolrwydd a chydlynnu. Pwy yn Llywodraeth Cymru sydd yn cydlynnu rhwng cyfiawnder a'r gwahanol feysydd yma? Wrth rannu cyfrifoldebau yn aml rhwng adrannau nid ydych o hyd yn llwyddo i sicrhau cyd-weithio fel dylai ddigwydd. Hyd yn oed os nad ydych yn datganoli cyfiawnder mae angen rhywun neu ran o lywodraeth Cymru sy'n cydlynnu ym maes cyfiawnder. 		
<p>In considering the situation at present there is a justice system within the devolved settlement because of the Welsh Tribunals and other forms of dispute resolution or soft laws that exist with</p>		

the town and country planning system and the Commissioners. We have to face what is happening. The different devolved areas such as health and social care overlap with the justice system on a daily basis. One of the gaps in the devolution settlement is the absence of the justice system. Even if that does not happen there needs to be accountability and co-ordination. Who in the Welsh Government co-ordinates between justice and these different areas? Sharing of responsibilities between departments is not always successful in enabling co-operation. Even if you are not devolving justice there is a need for someone or a part of the Welsh government to co-ordinate in the field of justice.

Lord Thomas referred to the executive devolution of police powers in London and Manchester and asked whether this was a possible model for Wales.

- KR: I have no expertise here and the group here represent commercial law firms in Cardiff.

Question area: Do you think there should be a law of England and a law of Wales, or a continuation of the law of England and Wales? How would you see the arrangements working?

- CN: From a commercial law perspective, it is increasingly recognised that Welsh law is distinct. We have laws that apply in Wales that do not apply in England and English law firms recognise that when they deal, for example, with utilities matters in Wales they need the expertise of a Welsh lawyer. We have a team in our firm whose job is to stay on top of Welsh law. Experience in Welsh law is often relevant to tendering for work in Wales. You need separate skills to work in Wales in some areas like property. In the past, it was standard in a commercial contract to say the applicable law was the law of England and Wales. That is a matter that is now negotiated and English firms are striking out the “and Wales” so that applicable law is the law of England. This has been due to English lawyers not knowing the law of Wales and how it may be different so not willing to take the risk.
- KR: It is recognised that there are devolved laws in Wales and separate laws. We already have laws of Wales and laws of England and Wales. A big theme here is transparency of that separation. It is important that there is transparency about what the laws of Wales are and ease of access to them is critical. I think it is workable as it is and laws of England and Wales are something that should continue recognising there is a growing and separate body of Welsh legislation that is accessible to those that need to use it.

Sir Wyn Williams asked if we should move to a position where there is the law of England and the law of Wales, albeit substantially the same law.

- AJ: If we were to separate the two, they start the same now subject to the changes we have now, over time those laws will inevitably move apart. The law of England and Wales at the moment is arguably the most successful brand worldwide. From a commercial law point of view, it's recognised worldwide and provides a commercial advantage to us in England and Wales because of that and in commercial dispute resolution. It seems like there are two things happening: first, the perceived benefit of a separate jurisdiction which over time will widen; and second from a business perspective it is for Welsh based law firms like mine to consider if they will lose a commercial advantage.
- KR: Taking that broader point, commercial law firms in Cardiff are all doing a lot of work in England and further afield and any change around legislation and jurisdiction that adds complexity and cost will undermine our commercial advantage of being able to deliver London quality work at a lower cost base. Whether these are the right things to do needs to be considered in the context of the impact of them on business and jobs in Wales. We need to avoid layering in cost and bureaucracy into the market.
- EL: Rwy'n deall y pryderon sy'n cael eu mynegi ond mae gennym y Cynulliad Cenedlaethol dros Gymru ac mae Llywodraeth Cymru a llywodraethiant yn seiliedig ar Gymru fel gwlad. Er bod adran A2 o Ddeddf Llywodraeth Cymru 2006 yn lled-gydnabod bod rhywbeth o'r enw cyfraith Cymru yn

bodoli, rhan o gyfraith Cymru a Lloegr ydyw, ac nid oes unrhyw arwyddocad na grym cyfreithiol, yn fy marn i, yn yr adran hon. Cyn belled ag y gwelaf y mater craidd yw cymhlethdod y setliad datganoledig yng Nghymru a bodolaeth Lloegr a Chymru yn llesteirio Llywodraeth Cymru a'r Cynulliad rhag delio â materion yng Nghymru. Mae angen i ni wahaniaethu. Byddai cyfraith Cymru wedi ei selio ar gyfraith gyffredin ac egwyddorion cyfraith gyffredin yn parhau. Byddai cyfraith Cymru yn parhau i fod yn rhan o deulu'r gyfraith gyffredin. Mae angen gwaith paratoadol gofalus arnom i wneud yn siŵr ei fod yn digwydd mewn ffordd drefnus iawn yn hytrach na newid sylweddol dros nos. Gall hynny fod yn gostus, yr wyf yn bersonol yn amau hynny a gall fod arbedion, ond nid yw hynny'n rheswm dros beidio â gwneud hynny.

I do understand the concerns being expressed but we have the National Assembly for Wales and Welsh Government and governance is based on Wales as a country. Although Section A2 of GoWA 2006 smei-recognises that something called the law of Wales exists, it is part of the law of England and Wales and there is no legal significance or force in this section in my opinion. As far as I can see the core issue is the complexity of the devolved settlement in Wales and the existence of the law of England and Wales hindering the Welsh Government and the Assembly from dealing with issues in Wales. We need to differentiate. Common law basis for Welsh law and common law principles would continue and Welsh law would continue to be part of the common law family. We need careful preparatory work to make sure it happens in a way that is very organised rather than a significant change overnight. That may be costly, I personally doubt it and there may be savings, but that's not a reason for not doing it.

- CN: In some ways, the answer is a political rather than a commercial judgment. We have the law of Wales, we have a devolved government but should we have a separate judiciary and common law. Take contract law as an example, I think you will find parties contract into English contract law as many international contract already are because that body of law is understood. From a commercial perspective I think you create barriers and obstacles. There are advantages and arguments for them but I think it would be viewed as a threat, not an opportunity.

Question area: Do you think there should be a separate judiciary for Wales? How would you see the arrangements working?

- EL: Efallai bod hwn yn gyfle i edrych ar y DU gyfan. Un opsiwn byddai creu barnwriaeth yng Nghymru sy'n debyg i Ogledd Iwerddon a Goruchaf Lys a rennir ar gyfer y DU. Mae talent yng Nghymru ar gyfer y rolau hyn. Fel y mae Syr Wyn Williams yn awgrymu, gallech fenthylg barnwyr ar gyfer rhai achosion os oes angen arbenigedd technegol penodol.

Perhaps this is an opportunity to look at the UK as a whole. I would consider that an option is to create a Welsh judiciary similar to Northern Ireland and a shared Supreme Court for the United Kingdom. There is talent in Wales for these roles. As Sir Wyn Williams suggests, you could borrow judges for certain cases if certain technical expertise is required.

- CN: The Business and Property Courts are in Cardiff, but what happens at the moment we issue no cases here but do all of our litigation in London. That is because the specialists we need at the Bar are all in London. We litigate in London too because the court system there is bigger and thicker and deeper. We currently have a wonderful system and I can't see why we would want to break it.
- KR: To justify changing the current system we would need to satisfy key criteria around would it actually provide a better service to the Welsh tax payer. You have to consider the quality of the judiciary, simply because they would be drawn from a smaller pool. There is also a cost impact. I have no idea what the implication would be to the tax payer and can we be sure we are giving them something better for the investment. I feel we would not end up with a superior system compared to the strong workable system we now have. On that basis, my view is we should stay as is.
- AJ: This is an opportunity for us to give greater visibility to civil law in Wales. I would welcome seeing higher courts in Wales, which is distinct from the question of separating the law and is

about representation here in Wales and our citizens seeing law being dealt with locally.

Lord Thomas asked for views in terms of access to justice and the maintenance of the rule of law from the citizens' perspective.

- KR: The argument is more compelling when you look at non-commercial work. As a Welsh citizen I see strength in accessibility of justice and more localised representation but from a business perspective I don't see the need for it.
- EL: Nid wyf yn gweld yr anhawster yn y naill gyd-destun na'r llall, ond mae'r dadleuon yn gryfach o ran y gyfraith yr ydych yn sôn amdani. Mae'r newidiadau i gymorth cyfreithiol a llysoedd lleol yn golygu y gall cyfreithwyr ar y stryd fawr gau ar draws Cymru, felly mae mynediad at gyfiawnder yn mynd yn fwy anodd. Nid wyf yn gweld y Swyddfa Gartref na'r Weinyddiaeth Gyfiawnder yn mynd i'r afael â'r mater hwn. Byddai'n golygu datganoli cyllidebau i Gymru ar gyfer gweinyddu cyfiawnder. Mae yna gostau canolog yn Llundain na fyddai eu hangen a byddai hyn yn rhyddhau arian at ddefnydd gweithredol. Byddai cyfrifoldeb am lysoedd yn rhoi cyfle i Gymru i edrych ar ffyrdd gwel o ddatrys anghydfodau. Rydym i gyd wedi dod ar draws anghydfodau rhwng cymdogion er enghraifft ac maent yn creu drwgdeimlad. Gallem ddod o hyd i driwlynlysoedd sy'n mynd i'r afael â'r materion hyn yng Nghymru. Rwy'n gweld y cyfle i fod yn greadigol mewn awdurdodaeth fach.

I don't see the difficulty in either context, but the arguments are stronger in terms of the law you are talking about. The changes to legal aid and local courts mean that many high street solicitors are closing across Wales, so access to justice is becoming more difficult. I don't see the Home Office or the Ministry of Justice wanting to address this issue. It would mean devolving budgets to Wales for the administration of justice. There are London centric costs that would not be needed and this would release money for operational use. Responsibility for courts would give Wales the opportunity to look at better ways to resolve disputes. We've all come across neighbour disputes, for example, and they create animosity. We could find tribunals that address these issues in Wales. I do see the opportunity to be creative in a small jurisdiction.

- CN: My view is that commercial law is wider than is suggested. It is not for the minority. It encompasses the law that applies to the public sector, third sector, SMEs and universities. It is the law that applies to where most people work and is anything that is not law specific to the individual. As regards law relating to the individual, we all know that there are chronic access to justice issues. We see it because we all offer pro bono services in one way or the other. It's as much to do with the absence of legal aid and the ability of people to access legal advisors as it is about the nature of the judicial system. The opportunity in Wales to have our own system to facilitate citizens' access to legal advice and justice is something that is deeply attractive.

Question area: Do you think there should be a separate legal sector in Wales? How would you see the arrangements working?

- CN: We are all net exporters of law. More than half of the income of my firm comes from work from outside of Wales and not just from England but from across Europe. This is partly because of the nature of the business that we have created wholly based in Wales but operating nationally and internationally. Our collective ability to do this because we are experts in the law of England. I'm nervous about anything that impacts on the perception of this. Nothing will impact on the reality, we will all be experts in the law of England and in the law of Wales. But I'm nervous about this and perception. People tend to think that the skill in our job is winning work. But the only way you do this is by recruiting excellent people who want to work in Cardiff. People we recruit understand that they need to be experts in English and Welsh law and we don't want to see this being a barrier to recruitment.
- KR: In terms impact, I think it depends on the detail of what is involved. If you are talking about dual regulation, qualification, training and so forth, it depends what you mean by a separate legal jurisdiction. From a business perspective, all of that implies added cost and complexity that will

reduce our competitiveness in the market. For the significant commercial firms in Cardiff doing the majority of their work outside of Wales, and who are not representative of the Welsh legal sector as a whole, they are winning that work because they can do high quality work at a more competitive cost base. Anything that adds in cost, complexity or bureaucracy is going to make us less competitive and this will have effects on the success of our businesses and the people we are able to employ in Wales. Added to this, we are just about to lose our powers to practise and advise in European jurisdictions and it would be a shame if in anyway it was made more complex and expensive for lawyers in Wales to practise in England. If you want the commercial legal sector in Wales to thrive I don't see a separate jurisdiction as being of benefit.

- AJ: The issue here is one of perception and reality and the former can very much become the latter. My concern is about the polarisation of the two jurisdictions happening in the minds of our clients rather than in reality. We can of course be dual regulated and it happens in Scotland already, where there is a degree of polarisation between jurisdictions as a result of historic development. I can see Wales being marginalised by polarisation, and I have seen this already in the context of negotiations over commercial contracts. It therefore feels like an unnecessary barrier. For commercial law firms as net exporters, any barrier that impacts on their ability to compete throughout England and Wales should be avoided. In relation to the cost of legal practice, I'm concerned about duplicated cost in regulation and training as we will be dual authorised and dual regulated. At the moment we are regulated by the SRA and the FCA and there is duplication in that. If there are more regulators there will be more cost.
- EL: Un peth y gall ffyrniau ei wneud yw addasu i'r hyn sy'n digwydd o'u cwmpas. Gall Brexit ddigwydd ac rydym i gyd wedi cymryd camau i fynd i'r afael â'r bygythiad o ran sut rydym yn gweithredu. Hyd yn oed os yw'r pryderon hyn a fynegwyd yn digwydd, gall ffyrniau addasu eu harferion gwaith. Daw'r canfyddiad yn realiti os byddwn yn caniatáu i hynny ddigwydd. Ni allaf weld yr anhawster yn yr awgrym y byddai gweithwyr proffesiynol cyfreithiol sy'n gymwys yng Nghymru a Lloegr yn parhau i fod â'r hawl i ymarfer yn y ddwy awdurdodaeth. Efallai y bydd angen rhyw fath o drefniadau arbennig ar gyfer hynny, ond mewn rhai meysydd arbenigol dim ond os oes gennych y cymwysterau a'r profiad perthnasol y gallwch weithredu ar hyn o bryd. O ran rheoleiddio, nid oes gennyf ateb syml ac mae dadleuon o blaid ac yn erbyn cael rheoleiddiwr cyffredinol ar gyfer Cymru a Lloegr neu reoleiddwyr ar wahân. A allai fod yna, er enghraifft, reoleiddiwr cyffredinol oherwydd tebygrwydd y gyfraith yng Nghymru, Lloegr a'r Alban? Gallai hyn fynd y tu hwnt i faes diddordeb y Comisiwn, ond yn y tymor byr dydw i ddim yn gweld pam na allwn ni ddathlu ein gwahaniaethau.

One thing firms can do is to adapt to what's happening around them. Brexit could happen and we have all taken steps to address the threat as to how we operate. Even if these concerns that have been expressed happen, firms can adapt their working practices. Perception becomes a reality if we allow that to happen. I can't see the difficulty in the suggestion that legal professionals qualified in England and Wales would continue to have the right to practise in both jurisdictions. There may need to be some kind of special arrangements for that, but in terms of specialist areas in England and Wales you can only currently operate if you have the relevant qualifications and experience. In terms of regulation, I don't have a simple answer and there are arguments both for and against having a general regulator for England and Wales or separate regulators. Could there be, for example, a general regulator because of the similarity of the law in England, Scotland and Wales? This might go beyond the Commission's area of interest, but in the short term I don't see why we can't celebrate our differences.

Question area: What impact do you think a separate legal system in Wales would have on the regulation of the professions and legal practice across England and Wales?

Considered above

Question area: Is there a growing consensus how to strengthen the legal sector in Wales

- KR: My view is that if you grow the business sector you grow the legal sector. We are only ever as strong as our clients. The business and legal sector in Wales is relatively small compared to

other larger cities and parts of the UK. As much business as we can attract to Wales, and ensuring we have the right legal expertise to support them, then the two sectors will organically grow together. There are practical things that can be done to grow the legal sector in Wales, such as universities producing the right calibre of graduates that can be retained. There are some granular things that can be done bottom-up, but top-down we need to encourage and support business growth.

- CN: I agree. It's about Welsh firms being able to win work and being perceived to be centres of excellence that are better than firms elsewhere around the UK. This turns on our ability to be able to recruit excellent people and to persuade them to come to Cardiff rather than Bristol, Birmingham or elsewhere. This is the biggest single constraint on our growth. Our national identity and quality of life here are big factors. Lawyers also like to do great work, and the more great work you win the more great people you can attract and so on. It becomes self-perpetuating. I don't think there is cause to be concerned about what is going on here. Winning work here is not the problem. All of our firms are winning significant mandates against firms across the border. The direction of travel is the right one, although it would be nicer if it was faster.
- KR: Because we are dependent on winning work from outside Wales we shouldn't impose constraints on our ability to do this. We are all capable of adapting to change. The difference between Brexit and a separate jurisdiction is that we have an element of control over whether we have the latter. Any change that is made as a result of this Commission should not make it more difficult to win work and to service it from Wales.
- AJ: I agree. The legal sector is a broad church and what we mean by the legal sector is a key question. The solicitors' sector is itself a broad church. On one hand, we may be talking about growing the sector nationally, which is about access to justice, by supporting the high street and rural communities, or on another hand we may be talking about creating legal jobs. My firm provides commercial advice to clients and individual advice too and it also supports a large network of smaller firms, so we have some insight into the issues they face. For me, it comes back to this matter of a centre of excellence. We have fantastic commercial law firms locally together with fantastic universities and law schools. The court structure is here and having Higher Courts here will help us grow the legal sector here. It's turning that collectively into a centre of excellence to help us become a greater net-exporter of legal services. There is a ripple effect of this, for the benefit of smaller firms. The question is such a big question and a multifaceted response is needed to realise where the benefit lies. This is about recognising that we already have a centre of excellence.
- CN: Some 3 or 4 years ago we had a number of cross-firm discussions where the major commercial firms in Wales talked about where we could collaborate. The then Minister at the time offered funding an exercise to achieve that. The difficulty is that whilst we all fall under the descriptor of commercial law firm we are all completely different with different strategies targeted at different sectors. We couldn't have one marketing front that covered everything.
- KR: There was a will to do something and a collective desire to raise the profile of the sector and its expertise. We found it difficult to find a tangible way to deliver that to the mutual benefit of all of the firms. But there was a desire to do something for the collective good. The work that Kevin Doolan did in a report for the Welsh Government at the time suggested that perhaps a way of pulling together the collective excellence that we have in the academic, law school and business centres is to focus on innovation in the Welsh legal sector and making it the most innovative in the UK. Our undergraduates would therefore focus on innovation together with those training in firms so we would become known for producing the most innovative law. It would not just be about technology but work practices and creativity too.
- CN: Swansea University ran with many of the recommendations in the report by Kevin Doolan and has established the Centre for Innovation and Entrepreneurship in Law (CIEL).

Sir Wyn Williams asked about relationships with the local Bar and solicitors and barristers working together to improve the legal sector in Wales.

- EL: Mae yna her i'r Bar. Mae'n iawn dweud bod gwaith yn y gyfraith sifil yn tueddu i fynd i Fryste,

gyda dim ond ychydig o ymarferwyr yng Nghaer, Caerdydd ac Abertawe. I raddau, credaf y byddai'n bosibl cael trefniadau ar gyfer awdurdodaeth ar wahân i'r llysoedd a'r Bar. Byddai achosion ag achos gweithredu yng Nghymru yn cael eu clywed yng Nghymru felly efallai y bydd mwy o achosion yng Nghymru a mwy o gymhellant i'r Bar yng Nghymru i arbenigo.

There is a challenge for the Bar. It is quite right to say that work in civil law has a tendency to go to Bristol, with only some practitioners in Chester, Cardiff and Swansea. I think to a degree it would be possible to have arrangements for a separate jurisdiction for the courts and the Bar. Cases with a cause of action in Wales would be heard in Wales so there may be more cases in Wales and more incentive for the Bar in Wales to specialise.

Simon Davies referred to CIEL and asked about innovation and technology and the role of academia and as a differentiator for the legal sector in Wales.

- KR: Technology is critical and is an absolute driver in the industry. There is a huge pressure on cost but not at the expense of quality. Technology and innovation is important to our work across multiple jurisdictions. There is huge emphasis in business about having project management expertise and data analysis expertise. All of these work types are critical to running a commercial legal practice. Having quality graduates in the locality to support us is critical. We do benefit from returnees but we need a local pot of talent to draw on too.
- AJ: Technology as an enabler to access to justice is different to technology as an enabler of legal practice. We need broad skills in-house. The missing piece is a level of digital awareness in the solicitor base itself, although those now coming through as trainees have a growing awareness of technology and its growing role. We can't compete without using technology and we craft the way we work around the technology. That's different to using technology for access to justice where technology is about self help and the public having access to legal resource for them to use. That sits better with academia than it does with commercial law firms. We tend towards areas of work where we have a specialism and a reputation.
- EL: Byddai'n syniad da i'r Comisiwn gael cyfarfod ag ymarferwyr ifanc a gofyn yr un cwestiwn iddynt. Al yw'r hyn sydd wrth wraidd y datblygiadau. I ba raddau y byddwn yn gallu datrys y materion moesegol yn ymwneud ag algorithmau yn gwneud penderfyniadau ar ein rhan sydd ar hyn o bryd yn cael eu wneud gan bobl sydd wedi astudio'r gyfraith. Nid wyf yn siŵr i ba raddau y mae Cymru yn barod i fod yn fochyn cwta wrth ddefnyddio AI.

It would be a good idea for the Commission to have a meeting with young practitioners and to ask them the same question. AI is what is at the core of the developments. To what degree will we be able to solve the ethical issues around algorithms making decisions on our behalf which are currently made by people who have studied the law. I'm not sure to what extent Wales is ready to be a guinea pig in the deployment of AI.

- CN: Legal technology divides into that which enables us to do our jobs better and that which does the job better for us. The former is moving at pace but the development in the main is happening in tech organisations outside law firms, who create proprietary products they then sell into law firms. Our approach is not to be first mover and pay the cost of that, rather it is to see what becomes tested and established. The technology that does the job for you is somewhat off. Technological change will be incremental and staying on top of that change is a matter of maintaining competitive advantage. Knowledge of blockchain and smart contracts is not generally extensive and I can see there being a point in time when it will be a requirement set by law schools that students be able to code.
- KR: In terms of how we can grow the legal sector and differentiate it from elsewhere, an approach would be to produce law graduates educated in legal technology and equipped for modern legal practice in Wales. This is achievable in Wales.

Rick Rawlings asked about engagement between firms and universities.

- CN: I've been to CIEL and we are looking to work with CIEL. I was behind CIBIL, the vision for which CIEL is now taking forward.

Lord Thomas asked if attendees would reflect on what they can do to work with universities around linkage between technology, law firms and universities and write to the Commission on this.

- KR: We don't have much engagement with Welsh universities specifically around technology. It's not a deliberate strategy and we can explore raising awareness about what is available in Wales.
- CN: We run our businesses to provide services to support clients and we look for expertise and technical support but that is not available in Welsh universities and in so far as it is it is not in law departments.

Simon Davies referred to what we are all trying to achieve in terms of strengthening the legal sector in Wales. "Leeds Legal" is a concept based on an ecosystem for legal services where co-ordination between the firms has driven growth of around 20% in the last year. There is greater co-ordination between law firms and the Bar in Bristol. In Belfast, universities are seen as a key part of the ecosystem for the legal sector in providing talent.

- KR: We came to that stage through the consultation a few years ago and whilst we struggled to find a way to market ourselves together, there was an underlying desire to work together to raise the profile and the quality of the legal sector in Wales. One way we could do that was through innovation with law firms, universities and technology developers working together. How we do this constructively didn't move on.
- EL: Y pwynt cyntaf i'w wneud yn dilyn sylwadau Kathryn yw dwi'n credu mai'r consensws oedd ei bod hi'n anodd marchnata Cymru ond yn bod hi'n haws marchnata Caerdydd. Efallai bod yna gamsyniad wedi bod ynglŷn â natur ymwneud gwahanol ffyrmau â phrifysgolion. Roedd eich cwestiwn chi wedi ei gyfyngu yn benodol i faes technoleg ond yn gyffredinol mae ffyrmau ni gyd yma heddiw yn gweithio gydag adrannau'r gyfraith mewn gwahanol ffyrdd yn gyson. Mae angen cyd-weithio rhwng y ffyrmau ond hefyd rhwng y prifysgolion. Mae hefyd yn golygu bod yna bobl oddi mewn i'r brifysgolion yn deall angenion y farchand gyfreithiol sy'n cael ei gyrru gan rhywbeth arall heblaw y REF. Os ydych chi'n son i gael y brifysgolion i gyd-weithio yna mae angen y meddylfryd hynny oddi fewn y brifysgolion.
- *The first point to make following Kathryn's comments is that I think the consensus was that it is difficult to market Wales but that it is easier to market Cardiff. There may have been a misconception about the nature of different firms' involvement with universities. Your question was specifically restricted to technology, but in general, all of us here today work with law departments in different ways constantly. There is a need for collaboration between the firms but also between the universities. It also means that people within the universities understand the needs of the legal market and is driven by something other than the REF. If you are talking about getting the universities to work together then that mindset is needed within the universities.*

Lord Thomas said that all agree that something should be done but that there is a failure of leadership to realise that and we welcome views in what can be done to rectify that.

- CN: In Leeds there was focus on financial services as there is a commonality of interest. That commonality of interest doesn't exist in Wales. In Bristol the Bar over 20 years has developed specialist expertise in commercial law, particularly around insolvency and this has aided the relationship between commercial law firms and the Bar. In Wales the specialism that developed was around criminal law, family law and personal injury. There is no commercial Bar in Wales and it's not in my clients' collective interests to build one as that service is available elsewhere. We have resources available to grow and develop businesses but in the absence of commonality of interest we all concluded it is better to focus on growing our respective firms. The question is not

as linear as it might therefore appear to be.

- AJ: I agree with CN and don't recognise the criticism that we could do more with the universities. The work that we all do with the universities is vast, certainly when we go into the law schools in the traditional role as solicitors and the training of them. There is a fin-tech and legal-tech question around but I'm not sure that market is mature enough at the moment. For my firm it comes back to technology as an enabler of access to justice or as an enabler of legal practice. Our resources have to go into technology as an enabler of legal practice as this is what our clients demand and need. Our technology is proprietary built by specialist software developers that we put in. Introducing students to the types of technologies we use how enable them to come up with different ways of using it because they are more technologically aware. Maybe that's the opportunity in using technology better rather than in seeking to develop new technology.

Simon Davies summarised the common ground around the shared desire to strengthen the legal sector to make a greater contribution to the economy of Wales, the benefits of co-ordination and a brand and the allocation of resources to strengthen the sector as well as individual firms. There is a role for the Welsh Government around technology and procurement to strengthen the sector but there is a role for private sector involvement too and we welcome your views on this.

- EL: We'll take that back and think about it collectively.

Question area: How could Wales be better represented within current justice and policing bodies?

The consensus view was that as commercial practitioners they could not offer a view.

Rick Rawlings referred to professional examinations in Welsh.

- EL: Mae hyn yn ymwneud â chydabod sefyllfa y Gymraeg fel iaith hyfyw, swyddogol a chyfreithiol.
- *This is about recognising the position of the Welsh language as a viable, official and legal language.*

Question area: Do you think any current justice and policing bodies should be set up on a separate Wales basis? Within a smaller jurisdiction how do you think the independence of the police, prosecution and the judiciary should be protected?

- EL: Rhaid cael cyfundrefn benodi sy'n dryloyw ac yn annibynnol o'r llywodraeth. Rhaid defnyddio y comisiwn penodiadau barnwrol presennol neu sefydlu un ar wahân. Rhaid cael ymddiriedaeth ym mhroffesiynoldeb a gonestrwydd y proffesiynau. Mae Gogledd Iwerddon yn llwyddo mewn cymeithas llawer yn llai. Mae tryloywder ac ymddiriedaeth a chyfundrefn sy'n galluogi bod amheuan yn cael ei gwyntyllu mewn modd tryloyw a chadarn yn holl bwysig.
- *There needs to be an appointment system that is transparent and independent of government. The existing judicial appointments commission must be used or a separate one set up. There must be trust in the professionalism and integrity of the professions. Northern Ireland is succeeding in a much smaller society. Transparency and trust and a system that enables doubts to be dispatched in a transparent and robust manner are crucial.*
- KR: The key criterion is will it give us a good return and represent value for money for the tax payer. I struggle to see we will end up with anything better than we have now. I don't feel I have the expertise to opine on the general point.
- AJ: Leaving a side the question of a separate jurisdiction, a small jurisdiction creates suspicion about a lack of independence. I can't make this link, it's all down to the process and the transparency around that process.
- CN: I agree. We are a small community and people are keen to observe independence.