

The legal sector in Wales - a rapid review

A REPORT BY
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About Jomati

Jomati is the leading UK-based specialist strategic legal consultancy to law firms and general counsel. Established in 2002, Jomati has advised firms in over 50 countries on a wide range of strategic, operational and partner related issues.

Jomati Consultants LLP was awarded the Queen's Award for Enterprise: International Trade 2012. The award recognises Jomati's success in growing international revenues year-on-year and for advising an increasing number of clients globally.

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Chapter one: Executive summary

This rapid review of the legal market in Wales was researched and written by Jomati Consultants over a period lasting just five months. Yet, despite the tight timeframe for its production, we believe our report offers useful insights regarding where the Welsh Government might – or might not – usefully intervene in the Welsh legal sector, in light of the strategic objectives set out in its Economic Action Plan (EAP).

In chapter three of this report, we provide a brief outline of the legal profession in Wales. Our report summarises where lawyers tend to work, what they tend to specialise in, and how the Welsh legal profession compares with its English equivalent. One of our more concerning findings is that the percentage of young solicitors is noticeably higher in England than in Wales while, at the same time, the percentage of older lawyers is noticeably higher in Wales than in England. This suggests that the Welsh solicitors' profession risks significant demographic pressures over the next few years. More positively, this chapter also highlights how the legal market in Wales does not merely consist of conventional legal practices, employing large numbers of regulated lawyers. In this part of our report, we therefore offer an example of a major Welsh organisation that is a far more significant legal sector employer than its solicitor headcount alone indicates it might be.

In chapter four, we outline the nature of the Welsh higher legal education sector, including the inbound and outbound movement of students studying law in Wales. The key takeaway of our research is that the Welsh legal education sector is overwhelmingly geared towards the exportation of talent, and that graduate supply significantly exceeds local demand within the Welsh legal profession. In this chapter, we also highlight an initiative by Swansea University to encourage a shift towards the use of LegalTech within the legal services market.

In chapter five, we explore legal apprenticeships in Wales. While our research indicates that existing legal apprenticeships schemes have largely stalled in the country, we also acknowledge that the true picture of the Welsh legal apprenticeship market is difficult to accurately determine, due to the poor quality of official data relating to this issue. In this chapter, we therefore suggest how the quality of such data might be improved. Better quality data will, we argue, allow for a more evidence-based debate regarding the future Welsh Government strategy towards legal apprenticeships in the country.

In chapter six, we evaluate past Welsh Government initiatives relevant to the legal sector – in particular past attempts to encourage nearshore service centre (SC) investments. Positively, our research indicates that Cardiff has previously come very close to being successful in attracting multiple large-scale SC inward investments. In this chapter, we also identify a possible new type of law-focused SC nearshorer in addition to traditional law firms. In light of our findings, and in light of the efforts by Cardiff and Swansea universities to redirect their law courses towards legal practice innovation, we believe there is now a realistic prospect of future large-scale nearshore SC investments occurring in Cardiff. We explain why in more detail in chapter 14 of this report.

We address public sector procurement of legal services in Wales in chapters seven to nine of this report. In these chapters, we express doubts about the ability of the Welsh Government and wider public sector to use procurement as a tool for delivering on its EAP objectives by reference to the legal sector. Bluntly, we conclude that the Welsh Government's purchasing power – and, indeed the purchasing power of the entire Welsh public sector – is too small to make any meaningful difference to the success of several of the law firms that are instructed, let alone the Welsh legal profession more widely. In chapter eight, we discuss how the legal profession in Wales would like the procurement process by Welsh public authorities to be altered. In relation to the solicitors' profession, our findings indicate a desire for more simplicity in the procurement process. In relation to the barristers' profession, there is a – justifiable – perception that legal work that is being externally procured is very modest in value, and also heavily focused on instructing London-based barristers. In chapter nine, we sought the opinions of legal practice leaders regarding Welsh public sector procurement.

In chapter 10, we explore how the Welsh legal profession is helping to support itself, and where mutual support is currently lacking. Here, we also gauge awareness of, and enthusiasm for, Welsh Government support. Our research indicates that Welsh legal practice leaders are generally hostile or indifferent to Welsh Government interventions within their sector. Nevertheless, there appears to be a small number of scenarios where Welsh Government support might be appreciated.

In chapters 11 and 12, we address the issue of the Welsh jurisdiction through two narrow – and practical – areas of focus. Firstly, we explore how the concept is perceived by those who will be at the sharp end of its implementation: practising lawyers in Wales. Secondly, we explore attitudes towards the concept by the Welsh law schools. In the case of the Welsh legal profession, we find that the lawyers we engaged with appear agnostic about several key elements of the Welsh jurisdictional issue, notably judicial policy. However, they become noticeably more animated where they fear – rightly or wrongly – that a separate jurisdiction might adversely impact on their business, or their right to operate on a cross-border basis into England. In relation to Welsh law schools, we find that these institutions appear reluctant to teach Welsh law to any great extent. Equally, there also appears to be a reluctance for Welsh law schools to create research materials on Welsh law – possibly because there are no clear incentives for them to do so.

In chapter 13, we discuss the possible impact of Brexit on the Welsh legal sector. This is obviously an issue of ongoing confusion. However, by examining various sources, we have been able to identify specific elements of the legal profession that are – potentially – particularly exposed to Brexit-related disruption. This identification process means that it could, potentially, be possible for the Welsh Government to formulate a programme of monitoring and active support for those areas of the Welsh legal market that appear to be at particular risk of Brexit-induced disruption.

In chapter 14, we explore the outcome of past support given to the legal profession, both in the UK and elsewhere. Our research suggests that targeted support has, on occasion, resulted in the transformation of legal markets, and the significant enhancement of well-paid job opportunities in these specific locations. In light of our specific finding in relation to Cardiff, explored previously in chapter six, we explain what lessons we think could be learned about how this city might be promoted as a potential nearshore SC venue.

In chapter 15, we explore various forms of legal practice innovation that have already occurred in Wales. Our key finding in this chapter is that Wales has some positive stories to tell, particularly in terms of public sector innovation. Assisted by a minimal amount of early funding, many of the in-house legal functions in Wales' local authorities have joined forces, thereby benefiting from economies of scale. Unfortunately, in relation to the private sector, the legal profession's track record in relation to innovation is more mixed. On the one hand, the Welsh legal profession is home to several practices that operate in genuinely novel ways. Unfortunately, and by way of contrast, the country's LegalTech and online legal services market barely exists at all.

In chapter 16, we provide an overview of our key conclusions arising out of this report. In this chapter, we also offer some suggestions regarding the possible policy implications of our findings, which we invite the Welsh Government to consider. Our suggested implementation plan is also included in this chapter.

Chapter two:

Report overview

Report overview

Jomati Consultants LLP has been commissioned by the Welsh Government to undertake a rapid review of the legal sector in Wales. Our independent review is intended to feed into, but also be separate from, the Commission on Justice in Wales. We understand the Commission is due to publish its findings and recommendations later this year.

Our rapid review was conducted in two phases. The first part of our report was prepared within six weeks of being instructed, with our findings submitted in March 2019. The second part of our report was completed in May 2019. This latest document is a consolidated version of the two earlier reports. It comprises 16 chapters, broadly based around the following five themes:

- 1) A description of the Welsh private practice and legal education market, focusing on:
 - An overview of the structure, specialisms and geography of the private practice legal market
 - An overview of legal talent movement into and out of Wales, with a particular focus on legal education and training
 - Legal apprenticeships in Wales

- 2) An analysis of public sector support to Welsh legal private practice community, focusing on:
 - Specific support initiatives offered by the Welsh Government
 - The procurement of solicitors' and barristers' services by both the Welsh Government and the wider public sector
 - The perspective of the Welsh legal market regarding existing public sector support
 - What support the legal profession in Wales would like to see from the Welsh Government in the future

- 3) Constitutional matters affecting the legal profession in Wales, focusing on:
 - The views of the Welsh private practice community regarding the evolution of a separate jurisdiction for Wales
 - The views of the legal academic community regarding the evolution of a separate jurisdiction for Wales
 - The possible impact of Brexit on the Welsh legal sector

- 4) Innovation in legal practice in Wales and beyond, focusing on:
 - A review of existing, state-supported, attempts to actively grow legal markets
 - Alternative types of legal practice in Wales, across both the private and public sectors

- 5) Our conclusions, thoughts about the key policy implications of our findings, and our suggested action plan.

Report methodology

In producing our report, we have drawn on a wide range of source materials, both original and pre-existing. These source materials include:

- All public submissions provided to the Commission on Justice in Wales, to the extent that they are relevant to our terms of reference
- Extensive materials provided by the Welsh Government, legal regulators, UK government departments and other relevant stakeholders
- 25 interviews with senior figures from the Welsh legal profession, including law firm leaders, members of the bar, senior law school representatives and in-house counsel and both public and private sector organisations
- A small-scale survey of the Welsh legal profession. This survey was conducted with the support of the Law Society in Wales, together with various umbrella lawyers' groupings, who promoted the survey on our behalf. A total of survey 37 responses were received
- Other public domain materials relevant to our review, including news articles and reports

When conducting our interviews with senior figures across the Welsh legal market – during phase one of our research – we actively sought out participants from large and small institutions, and also from institutions around the country. Regrettably, the outcome of this outreach exercise was varied, despite multiple attempts at contacting key interview targets. For example, among the law firm leaders we spoke to – and reflecting the demographics of the Welsh legal profession as a whole – the overwhelming majority were based in South Wales. Helpfully, we were able to speak to leaders from several of Wales' largest legal employers, in Cardiff and elsewhere. In terms of the relative market influence of those we have obtained feedback from, we therefore regard the insights we have gathered as being significant. In the second phase of our research, we interviewed several senior law school representatives, and also a small number of additional law firm representatives.

Where we were successful in securing interviews, these took place under the promise of anonymity. For that reason, we are unable to disclose the identities of those individuals we spoke to – especially as, in some cases, there are only a small group of individuals we could have contacted. Although we cannot share their identities we are, nevertheless, very grateful to all of our interviewees for the time and comments they provided us with.

Helpfully, our small-scale survey, undertaken during the second phase of our research, allowed us to reach a broader range of legal professionals than we were able to reach via interviews during the first phase of our research. Although still dominated by respondents based in South Wales, we were pleased to observe that a small number of law firms based in North Wales also took part. Representatives from several SME law firms also responded, as did individual members of the Welsh Bar. Our outreach programme to promote our survey also prompted several public sector in-house legal organisations to provide us with useful information about their activities.

Our survey largely comprised “open” questions. Examples of such questions include: “What are the most significant challenges currently facing your business – and why?” and “How might the creation of a separate legal jurisdiction for Wales affect your business?”. Because of the open nature of our questions – and also in light of the modest response rate to our survey – we have not attempted to undertake a statistical analysis of the responses we received. There is, therefore, no standalone chapter in our report that specifically summarises the responses to our survey. Instead, we have used the responses given to our survey in the chapters of our report where they are most relevant. These comments are therefore intertwined with responses given via face-to-face, telephone and email interviews.

Where possible, and notwithstanding the extremely tight time constraints for producing this report, we have taken an expansive approach to our terms of reference. For example, we were asked to consider “whether a different approach to public procurement of legal services could facilitate the development of a different type of relationship between the Welsh Government / other public bodies and the legal sector in Wales”. In order to make such an evaluation, we thought it useful to first “test the water” regarding the legal sector’s perceptions of the existing procurement regime. This would help us form an initial evidence base for establishing if – and how – the profession would prefer to see changes made to the current procurement arrangements.

On a small number of occasions, we discovered that no data appears to exist in relation to a specific topic we have been asked to investigate, or could not be gathered within the time constraints required for producing this report. In such circumstances, we acknowledge this outcome explicitly. We also offer proposals regarding how such research might be undertaken in the future – where we feel that such research might have value.

Chapter three: Overview of the legal market in Wales

The two principal branches of the legal profession in Wales – solicitors and barristers – are overwhelmingly based in South Wales.

The Welsh solicitors' profession – geography

According to data provided by the Solicitors Regulation Authority (SRA), there are around 3,500 practising solicitors in Wales. Of those, 76% work for law practices, and 24% for other types of employer. These "other" employer types include national and local government, the wider public sector, commerce and industry, advice services, churches and charities, amongst others. The geographical distribution of solicitors working in Wales is as follows:

- Just over 60% are registered as working across the following South Wales local authority areas: Cardiff (42%); Caerphilly (8%); Monmouthshire (2%); Newport (8%); and Rhondda Cynon Taf (<1%)
- 20% are registered as working across the following West Wales local authority areas: Carmarthenshire (4%); Pembrokeshire (3%); and Swansea (13%)
- 14% are registered as working across the following North Wales local authority areas: Isle of Anglesey (1%); Conwy (3%); Denbighshire (3%); Flintshire (1%); Gwynedd (2%), and Wrexham (4%)
- 5% are registered as working across the following Mid Wales local authority areas: Ceredigion (2%) and Powys (3%)

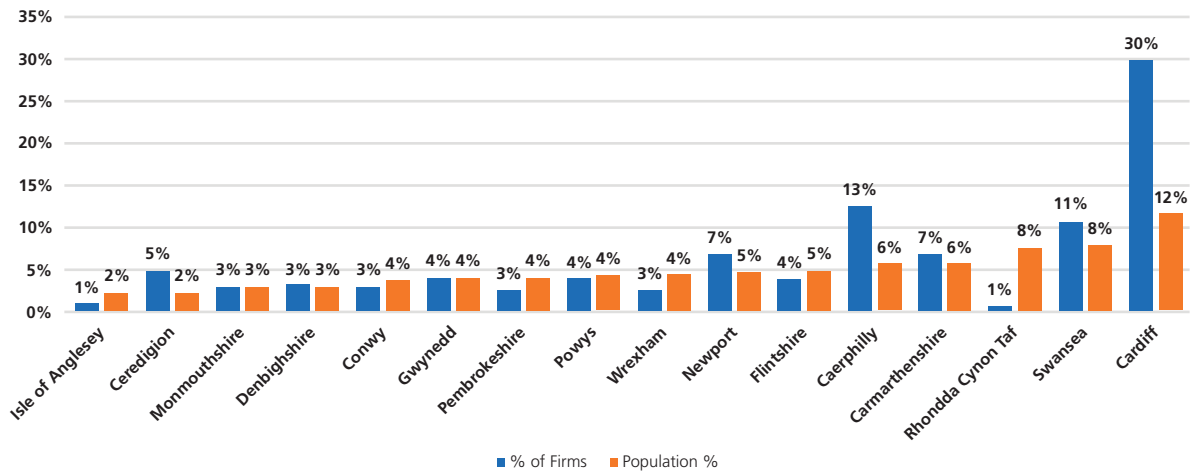
There are 592 law firm offices in Wales, encompassing both head offices based in the country, and also branch offices based elsewhere. Within this total, there are approximately 391 law firms that are based in Wales, and 39 branch offices in Wales that belong to law firms based in England. A number of law firms in Wales, both Wales and England-based, operate multiple offices in the country. The SRA totals only include law firms with a reported annual turnover of more than £20,000.

Perhaps not surprisingly, the heavy concentration of solicitors in South Wales is mirrored by the locations where most Wales-based law firms have their headquarters. Regionally, approximately:

- 54% of all Welsh-headquartered law firms are registered as being based in the following South Wales local authority areas: Cardiff (30%); Caerphilly (13%); Monmouthshire (3%); Newport (7%); and Rhondda Cynon Taf (1%)
- 21% of all Welsh-headquartered law firms are registered as being based in the following West Wales local authority areas: Carmarthenshire (7%); Pembrokeshire (3%); and Swansea (11%)
- 18% of all Welsh-headquartered law firms are registered as being based in the following North Wales local authority areas: Isle of Anglesey (1%); Conwy (3%); Denbighshire (3%); Flintshire (4%); Gwynedd (4%); and Wrexham (3%)
- 9% of all Welsh-headquartered law firms are registered as being based in the following Mid Wales local authority areas: Ceredigion (5%) and Powys (4%)

In comparison with England, Wales is somewhat underserved on a “law firm per head of population” basis. The SRA estimates that, when nationwide general populations are compared, there is one law firm per 5,472 people in England, compared with one law firm per 7,962 people in Wales. That said, on a somewhat more granular basis, there appears to be a broad correlation between local general populations in Wales and law firms headquartered in each Welsh local authority area.

Figure one: solicitors’ firms per head of population compared



Source: SRA

In terms of Welsh locational outliers, we note that – where a law firm is based in Wales – the location of its headquarters is disproportionately more likely to be in Cardiff, and also proportionally less likely to be in Rhondda Cynon Taf, when compared with general population norms. While SRA data suggests that just 12% of the Welsh general population live in Cardiff, 30% of Wales-based law firms are located there. Conversely, while 8% of the Welsh population is based in Rhondda Cynon Taf, just 1% of Wales-based law firms are located in this local authority area. In light of Rhondda Cynon Taf’s close proximity to Cardiff, and also the extensive nature of its direct road and rail links to the Welsh capital, it is likely that – at least to some extent – Cardiff’s importance as a legal centre can explain this particular discrepancy. Equally, given Caerphilly’s close proximity to Cardiff, it is likely that some of the relatively high number of law firms based in this area also serve the Cardiff population.

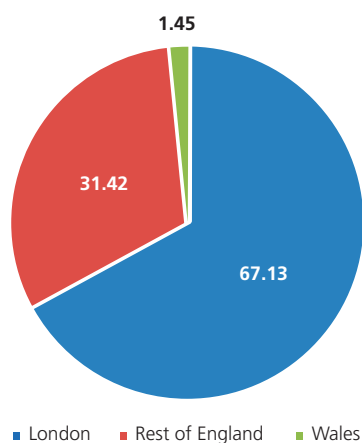
It should also be stressed that the above SRA data only encompasses the head office locations of law firms in each of the above-mentioned local authority areas: branch offices of law firms based elsewhere are not included in this analysis.

Continuing with the branch office theme: the overwhelming majority of law firms in Wales (68%) operate out of a single office. A further 26% of Wales-headquartered law firms also operate between one and two branch offices, in addition to their head office location. A further 5% of Wales-based firms operate between three and five additional branch offices. Just 2% of all Wales-based firms operate more than five branch offices, in addition to their head office.

Firm turnover, size and specialisms

According to the most recent SRA data available, the total annual revenues generated by English and Welsh-based law firms was £28,225,703,748. Wales-based law firms generated a mere 1.45% of this total – just £408,112,556. This is a somewhat disappointing statistic considering that Wales, as a whole, contributes around 3.82% to the combined Gross Added Value of the English and Welsh economy¹. However, the mismatch between Welsh-only and pan-English and Welsh law firm revenue totals can be significantly explained by the distorting influence of London-based legal practices. Collectively, these firms accounted for £18,947,669,528 of the pan-England and Welsh £28,225,703,748 total. Without this distorting influence, English law firms based outside London generated collective revenues of £8,869,921,664.

Figure two:
Law firm head office revenues –
London, rest of England, Wales



Source: SRA

In terms of head office revenues, the largest single group of law firms in Wales (43.5%) turned over between £100,000 and £500,000 per year. A very similar amount (43.2%) turned over more than £500,000 per year, while 13.3% turned over £100,000 or less.

Revenues generated by Wales-based law firms were broadly in line with their English equivalents, with some noticeable differences at the upper and lower end of the income scale. While 8.2% of English-based law firms generated revenues of in excess of £5,000,000 per year, just 3.6% of Wales-based firms did so – probably reflecting the significant concentration of revenue in London. Also notably, while just 0.5% of English-based law firms turned over less than £100,000 per year, 13.3% of Wales-based firms did so.

¹ ONS. *Regional economic activity by gross value added (balanced), UK: 1998 to 2017*, 12 December 2018.

Figure three: Welsh and English law firm revenues compared

Source: SRA

The compact geographical spread of many Wales-based law firms, and also their relatively low revenues, can largely be explained by the fact that many Welsh law firms are small. A total of 43% of all Welsh firms employ 10 solicitors or less, while just 18% employ 50 or more.

As table one below shows, in terms of legal specialisms offered by the head offices of law firms based in Wales, the country's law firm market is heavily biased towards private client work – noticeably more so than English firms. The four most popular areas of practice, offered by law firms in Wales, are: residential conveyancing (74% - England equivalent: 55%), wills, trust and tax planning (73% - England equivalent 51%), probate and estate administration (65% - England: 45%) and family / matrimonial law (63% - England: 50%). The heavy reliance of Welsh law firms on these private client-focused legal specialisms is, potentially, a cause for concern. Conveyancing law is, of course, heavily dependent on an active residential property market, which – by no means – is certain in the near future². Meanwhile, the divorce³ and power of attorney aspects of family law is now on the path towards being significantly digitised. Going forward, this transformation may impact disproportionately on the Welsh solicitors' market.

² RICS. *UK housing market faces challenging 2019*, 18 December 2018; *The Law Society. Legal Services sector forecasts 2017 – 2025*, August 2018, p11.

³ Gov.uk. *HM Courts and Tribunals Service tests fully digital divorce application*, 30 January 2018.

Table one: legal advice specialisms offered by law firm head offices – England and Wales compared

Area of Law	England	England (without London)	Wales
Arbitration and alternative dispute resolution	8%	6%	3%
Children	23%	26%	38%
Commercial / Corporate Work for Listed Companies	9%	6%	5%
Commercial / Corporate Work for Non-Listed Companies and Other	31%	28%	22%
Commercial Conveyancing	52%	54%	63%
Consumer	3%	4%	3%
Criminal	24%	24%	31%
Employment	39%	39%	39%
Family / Matrimonial	50%	53%	63%
Financial Advice and Services (Regulated by SRA)	2%	1%	1%
Immigration	17%	12%	4%
Intellectual Property	6%	5%	2%
Landlord and Tenant (Commercial and Domestic)	38%	38%	44%
Litigation - Other	53%	51%	53%
Mental Health	3%	3%	4%
Non-Litigation - Other	30%	30%	37%
Personal Injury	30%	36%	35%
Planning	4%	4%	4%
Probate and Estate Administration	45%	51%	65%
Residential Conveyancing	55%	59%	74%
Social Welfare	1%	1%	1%
Wills, Trusts and Tax Planning	51%	56%	73%

Source: SRA

At the other end of the advice availability spectrum, SRA data suggests that SRA-regulated financial advice (1%), social welfare (1%), intellectual property (IP) (2%) and arbitration / ADR (3%), are the four types of legal advice that are least offered by Wales-based law firms. In relation to financial advice and social welfare advice, the limited Welsh capacity closely reflects that in England, where the equivalent percentages are 2% and 1% respectively. However, in relation to arbitration / ADR and IP law, the focus of law firms based in Wales is several percentage points behind that in England. In England, 8% of law firms offer arbitration advice, compared with 3% of those based in Wales. For IP advice, the English provision percentage is 6%, while the Welsh-based firms' provision percentage is 2%.

The disproportionate tendency for England-based law firms to offer business law advice, when compared with their Wales-based counterparts, is notably apparent in relation to commercial / corporate work for non-listed companies and others (England 31%, Wales 22%). For listed company commercial / corporate work – a smaller niche – law firms based in Wales broadly correspond with their counterparts in England outside London (6% England / 5% Wales), but less so when London is also included (9% England including London, 5% Wales). Finally, in relation to immigration law advice, this specialism is practiced by 17% of law firms based in England, but just 4% of firms based in Wales.

Advice deserts in Wales

The information provided above allows us to develop a top-level understanding of the range of legal specialisms offered across Wales, on a nationwide basis. Unfortunately, for reasons of data protection, the SRA has been unable to provide us with a detailed, area-by-area, breakdown regarding the provision of those legal specialisms by the solicitors' sector. We cannot, therefore, offer comprehensive guidance regarding whether any area (or areas) in Wales represents an advice desert for specific legal specialisms.

We understand that the Commission on Justice in Wales is obtaining more granular information from the SRA. It may, therefore, be appropriate for the Welsh Government to engage with the Commission in due course, in order to identify existing advice deserts and potential advice deserts.

However, even if such data becomes available to the Welsh Government, we feel it important to stress the challenge of comprehensively exploring this issue. Our – admittedly brief – review of the available literature suggests that past research into Welsh advice deserts has tended to be limited in its scope, focusing on either discrete legal specialisms or small geographical areas. For example, the Law Society's research into advice deserts focused exclusively on advice deserts in relation to housing law, by reference to a single type of legal advisor – legal aid law firms⁴. Similarly, a study by Cardiff University's Daniel Newman – mentioned in his submission to the Justice Commission – focused on just five small settlements on the edge of the Brecon Beacons National Park⁵. We are also aware of research undertaken by another Wales-based academic, Professor Richard Owen, who has explored an issue that is related to advice deserts – unmet legal need – in the English town of Colchester⁶.

In light of our own research into the legal sector in Wales for this report, together with our analysis of submissions to the Justice Commission, we suggest that the following additional factors – highlighted below – may also be relevant to the issues of advice deserts in Wales.

Factors which might contribute to the emergence of advice deserts in Wales

- A limited supply of trainee solicitors and barristers at the junior end of the legal profession
- The potential demographic fall-off of provision, caused by older solicitors retiring
- The fact that the Welsh Bar is almost exclusively based in South Wales
- The lack of provision of certain types of legal advice, especially compared with England
- The fact that, at present, Welsh solicitor firms are less likely than their English counterparts to deliver services remotely, including by telephone⁷

⁴ www.lawsociety.org.uk/policy-campaigns/campaigns/access-to-justice/end-legal-aid-deserts.

⁵ Justice Commission. *Submission to Justice Commission from Daniel Newman*, 24 November 2018.

⁶ <http://journals.northumbria.ac.uk/index.php/ijcle/article/view/596/1014>.

⁷ Justice Commission, *Submission to the Justice Commission from the Legal Services Board*, 1 June 2018, p28.

- On a related point, poor transport connections between certain population centres, which may hinder access to in-person legal advice in nearby, but difficult to reach, locations
- The impact of legal aid cuts across the country⁸. This reform has not only led to a reduction in the number of law firms offering legal aid in Wales⁹, it has also prompted a number of Welsh law centres to close¹⁰. Access to legal aid providers for certain legal specialisms, such as those with expertise in making claims against public authorities, is now severely restricted in Wales¹¹
- The impact of court closures across the country, including 22 magistrates' courts¹², which may result in lawyers drifting away from areas that cease to be centres of legal activity

Factors which might mitigate against advice desert problems in Wales

- Advice delivered remotely, such as via telephone, Skype¹³, chatbots etc¹⁴
- The option to self-serve for certain types of legal matters. These include lasting power of attorney services, which can now be delivered online¹⁵
- Legal advice offered by non-traditional providers. These non-traditional providers might include generalist advisors – such as Citizens Advice, more specialist advisors – such as Shelter Cymru, law schools – such as Cardiff University's Innocence Project, novel (but law-specific) providers – such as Lexsnap, or hybrid suppliers – such as the partnership between Cardiff Law School and Mencap Cymru

If the Welsh Government elects to explore legal advice deserts in Wales in more detail, we suggest they do so on a narrow, rather than general, basis. For example, they may wish to investigate possible advice deserts in relation to a single legal specialism, taking into account the diversity of service providers – law firms and otherwise – and also the various forms of legal service delivery, in-person or otherwise. We believe that this narrow approach would be more manageable – and yield far more useful insights – than a general investigation, which we fear would rapidly become unmanageable. We also suggest that the Welsh Government engages with researchers who have already explored the issue of legal advice deserts in some detail. Helpfully, as previously noted, at least two of these researchers are already based in Welsh universities.

Solicitor demographics in Wales

In terms of solicitor demographics, the SRA has been unable to provide us with highly granular data, due to the potential risks of identifying specific individuals in certain parts of Wales. But, as a more general observation, the SRA data tells us that Welsh solicitors tend to be somewhat older than the average across England and Wales as a whole. For example, as figure four below shows, 19% of Welsh solicitors or partners are in the 55 – 64 age range, compared with 14% across the English and Welsh market collectively. Similarly, solicitors and partners in Wales are also somewhat less likely than their English counterparts to fall within the 24 – 34-year-old demographic.

⁸ Justice Commission. *Submission to Justice Commission from Daniel Newman*, 24 November 2018, p3.

⁹ Justice Commission. *Submission to the Justice Commission from LawWorks*, 4 July 2018, p2-3.

¹⁰ Justice Commission. *Submission to the Justice Commission from the Public Law Project*, 6 August 2018, p3.

¹¹ www.gov.uk. *Information about legal aid providers by category of law*.

¹² Law Society's Gazette. *Wales loses 22 magistrates' courts in eight years*, 20 February 2019.

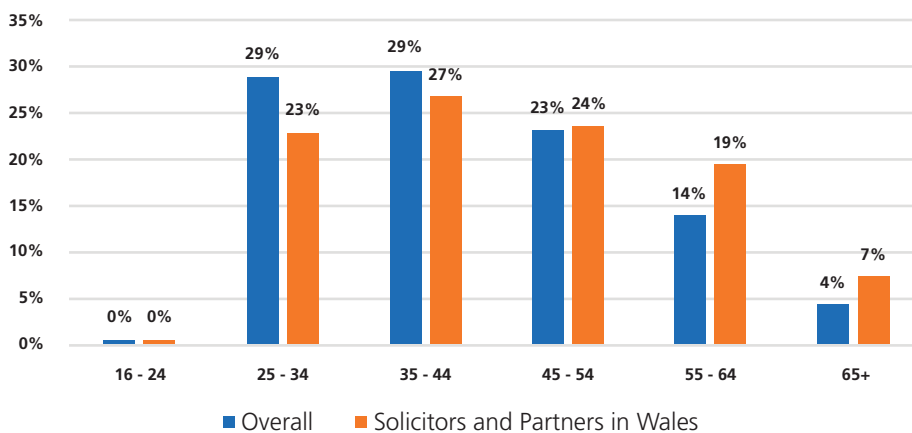
¹³ Justice Commission. *Submission to the Justice Commission from LawWorks*, 4 July 2018, p3.

¹⁴ Adam Wyner. (2018). *A Chatbot Framework for the Children's Legal Centre*. Monica Palmirani (Ed.), *Legal Knowledge and Information Systems*, (pp. 205-209). IOS Press.

¹⁵ www.gov.uk/power-of-attorney.

Individual submissions to the Justice Commission have made similar observations to that mentioned above, and in relation to specific types of legal work. For example, JUSTICE’s Justice Commission submission observes that “across Mid and West Wales, in excess of 60% of criminal duty solicitors are over 50 years of age.” This demographic, JUSTICE suggests, “inevitably gives rise to concerns of a ‘generational cliff’ and the prospect of chronic shortfalls in criminal law expertise in Wales in the not so distant future.”¹⁶

Figure four: age of solicitors at firms based in Wales, compared with England and Wales generally



Source: SRA

At least anecdotally, the above data suggests two things: firstly, that Wales appears to have a solicitor talent pipeline problem, particularly in relation to younger practitioners. In light of the low number of training contracts available in Wales – SRA data suggest that just 146 were available in 2016 – we can speculate (no more) that many would-be solicitors, educated in Wales, are instead opting to work in England, either out of choice or necessity. Secondly, figure four suggests there is the potential for a significant solicitor headcount fall-off to occur in Wales within the next few years, as those Wales-based solicitors aged 55 and above retire.

That said, we cannot be certain whether any such demographical change will result in tangible problems regarding legal services provision in Wales. As previously stated, a significant percentage of the workload that underpins the Welsh solicitor profession is currently undergoing market consolidation into larger service providers (residential conveyancing) or being digitised / “de-lawyered” (aspects of family law). We should not, therefore, draw an inescapable conclusion that the ageing demographics of the Welsh solicitor profession will inevitably result in a shortage of legal advice relating to these retirees’ former specialisms. The ability to deliver legal services to a location, and the number of solicitors practising in that location, are not – by any means – directly related.

¹⁶ JUSTICE. *Commission on Justice in Wales. JUSTICE submission for evidence*, July 2018, p11.

Highly-regarded Welsh law firms

The legal profession in England & Wales has not benefitted from TripAdvisor-style rating guides, which allows consumers to identify and instruct law firms based on transparent consumer feedback. However, in the absence of such a service, two annually-produced legal directories – *Chambers UK* and the *Legal 500* – go some way to fill this gap in the market. Each year, hundreds of researchers from both publications seek out the opinion of law firm peers, clients and other professionals, in order to produce lawyer rankings based on both geography and legal specialisms. These guides are not exhaustive, and are certainly not infallible. But, positively, around 60 out of the 430 law firms operating in Wales are currently ranked by one or more of these legal directories.

Perhaps inevitably, given that both *Chambers UK* and the *Legal 500* are heavily skewed towards the commercial legal market, legal practices based (or operating) in Cardiff dominate their rankings. Indeed, in the latest editions of both legal directories, Cardiff's "big four" local practices achieve the top four rankings overall – a position further assisted by the wide range of legal specialisms that these firms are ranked in relation to.

That said, as both *Chambers UK* and the *Legal 500* also highlight, an – admittedly small – group of Welsh law firms outside Cardiff have also achieved industry-wide recognition for their expertise, across a range of business and consumer-focused specialisms. For example, in the corporate and commercial legal space – arguably the archetypal "big city / capital city" practice area – law firms headquartered in Welsh locations such as Abergavenny, Welshpool and Pembroke are all recognised for their expertise in this practice area, in addition to several law firms based in Swansea. While the exact focus of each of these law firms will vary according to the experience of their individual solicitors, it is certainly not true that high quality corporate and commercial law advice can only be delivered over the border in England, or only in Cardiff within Wales. The same can also be said of more niche commercial legal specialisms, such as intellectual property or sports law: practitioners based in Neath and Swansea are ranked by the legal directories alongside their Cardiff-based peers. Just because a Welsh location does not play host to many solicitors does not mean that the location cannot, nevertheless, become a recognised centre of excellence for specific types of legal advice. This observation is also relevant to the possibility of advice deserts in Wales, discussed previously.

The Welsh barristers' profession

Although there are in excess of 16,000 barristers regulated with the Bar Standard Board across England and Wales, only about 300 are registered as working in the whole of Wales. This is roughly half of the number of barristers registered as working in Birmingham alone – and even less than the 370 barristers registered as working in Bristol.

Among those barristers known to be based in Wales, roughly 200 are based in Cardiff, just over 80 are understood to be based in Swansea, and around 10 are likely to be in Newport. In each of these cities, most barristers are based in a very small number of chambers. An additional few occupy in-house or government positions. In Cardiff, for example, the overwhelming majority of barristers are based in just six sets of chambers: 9 and 30 Park Place, Apex Chambers, Civitas Law, Coal Lex, and Temple Court Chambers. In Swansea, meanwhile, barristers are heavily concentrated in three chambers: Angel Chambers, Iscoed Chambers and Pendragon Chambers. Finally, there is just one notable set of barristers' chambers in Newport – Cathedral Chambers. We are not aware of any sets of Welsh Barristers' chambers outside South Wales.

Below, we summarise Welsh barristers' self-declared legal specialisms, as specified in the Bar Council / Juriosity online directory. Because participation in this directory is voluntary, the totals provided in table two below do not represent the areas of focus of the entire barristers' profession in Wales. Nevertheless, it is a close approximation of it. In this legal directory, barristers are permitted to nominate themselves in relation to multiple specialisms, and also in relation to multiple locations. In relation to that latter point, we therefore distinguish between those barristers that are primarily based in Wales and those who are – effectively – door tenants.

Across all the specialisms we list in table two, there appears to be the highest level of strength and depth in relation to barristers' expertise in Cardiff, followed – some way behind – by Swansea and Newport. Across all specialisms, there is a notable pan-Wales bias toward personal legal services, such as criminal, family and personal injury / clinical negligence law. By contrast, several legal specialisms are not included in table two below, because no Wales-based barristers claim to undertake this type of work. Missing specialisms – many of which have a business law focus – include aviation, banking and finance, corporate, commodities, energy and natural resources, healthcare pharma and life sciences, projects and infrastructure, shipping and technology, media and telecoms law. For reasons that will become clear in chapter seven, which explores Welsh Government procurement, the number of barristers in Wales that claim to specialise in administrative and public law is noteworthy.

Table two: barristers' specialisms in Wales

Practice area barristers specialise in	Number of barristers per specialism per location					
	Cardiff	(Based Elsewhere)	Newport	(Based Elsewhere)	Swansea	(Based Elsewhere)
Administrative and public law	16	3	-	-	-	-
Alternative dispute resolution	6	2	-	-	-	-
Commercial	14	3	-	-	-	-
Commercial litigation	4	2	-	-	1	-
Construction	3	-	-	-	1	-
Criminal	60	4	-	1	5	2
Employment	16	-	-	-	5	-
Environment and Health & Safety	3	2	-	-	-	-
Family	47	3	1	1	12	1
Immigration	20	-	-	-	-	-
Intellectual property	2	-	-	-	-	-
International law	2	-	-	-	-	-
Media	2	-	-	-	-	-
Personal injury and clinical negligence	34	3	-	-	8	1
Planning	6	-	-	1	-	-
Private client	3	-	-	-	-	-
Professional discipline and regulation	15	2	-	-	2	-
Professional negligence	5	1	-	-	-	-
Property	18	2	-	-	3	-
Restructuring and insolvency	9	1	-	-	-	1
Tax	1	-	-	-	-	-
TMT	-	-	-	-	-	-
White collar crime	4	1	-	-	-	-

Source: Bar Council / Juriosity

In terms of industry-recognised barristers, *Chambers UK* and the *Legal 500* directories provide a useful guide to the most highly regarded chambers. We summarise chambers ranked by either of these directories in table three below. As table three indicates, except for Court of Protection and inquests and inquiries work, at least two sets of barristers' chambers have industry-recognised expertise in relation to each of the specialisms shown below. Indeed, in relation to most legal specialisms, more than one barrister within each set of chambers will be a recognised expert in relation to each area of law.

Table three: Wales-based chambers recognised by either *Chambers UK* or the *Legal 500*

Type of law	Wales-based set of Chambers
Administrative / public law	30 Park Place; 9 Park Place; Civitas Law
Commercial, banking, insolvency and Chancery Law	30 Park Place, 9 Park Place; Civitas Law
Construction, planning and environmental law	9 Park Place; Civitas Law
Court of Protection	30 Park Place
Commercial dispute resolution	9 Park Place; Civitas Law
Criminal law	30 Park Place; 9 Park Place; Angel Chambers; Apex Chambers; Iscoed Chambers
Employment law	9 Park Place, Civitas Law; Iscoed Chambers
Family, matrimonial and children's law	30 Park Place, 9 Park Place; Angel Chambers; Cathedral Chambers
Inquests and inquiries	Civitas Law
Personal injury and clinical negligence	30 Park Place; Civitas Law; Iscoed Chambers
Property law	9 Park Place; Civitas Law; Iscoed Chambers
Regulatory, health & safety; licencing law	9 Park Place; Civitas Law; Apex Chambers

Source: Chambers UK / Legal 500

Other legal professionals in Wales

Over and above solicitors and barristers, there are seven other regulated professions that cover the Welsh legal market. The regulated professions are:

- Chartered Legal Executives (CILEx)
- Licenced Conveyancers
- Patent Attorneys
- Trade Mark Attorneys
- Costs Lawyers
- Notaries
- Chartered Accountants

Some of these legal professions, identified above, have a large Wales contingent. For example, more than 1,000 CILEx members are understood to “live in or adjacent to Wales”¹⁷. But, in most other cases, the total number of legal professionals who are registered as working in Wales is very small. For example, our evaluation of the Costs Lawyers’ register suggests a mere 15 members of this niche legal profession are registered as working in the country – 13 in Cardiff and two in Swansea. Similarly, a mere six regulated members of the Chartered Institute of Trade Mark Attorneys are registered as working in Wales. In terms of their overall economic / employment importance to the Welsh legal market, most of these additional legal professions do not – therefore – rank highly.

Non-traditional sources of legal sector employment in Wales

It is very convenient to evaluate the size and scope of a legal market by reference to the total number of regulated lawyers. Similarly, it is also convenient to think of the legal profession by reference to the familiar types of business entity – i.e. conventional law firms or barristers’ chambers. However, it should be understood that, while these are all important elements of the Welsh legal sector, they do not represent its entirety. To illustrate this point, below we offer an example of one non-traditional source of legal employment we have observed during the course of our research into the Welsh legal market. We will discuss the non-traditional legal market further in chapters five and 15 of this report.

The example we offer is Admiral Law Limited, the client-facing legal practice arm of the Wales-based insurance giant. According to the Law Society’s “Find a Solicitor Service”, Admiral Law Ltd employs around 47 solicitors across its two sites in Cardiff and Newport. On a solicitor headcount basis alone, Admiral can therefore be regarded as one of the largest legal practices in Wales. However, it is our understanding that this organisation’s total employee headcount is far higher: around 600 in total. To put this figure in its Welsh context, Admiral Law Ltd single-handedly employs around twice as many people as belong to the entire Welsh regulated Bar.

While regulated by the SRA, Admiral Law does not simply employ solicitors: an analysis of the company’s LinkedIn employee profile pages indicates that a wide range of roles are undertaken at the company, none of whom would appear within the SRA’s regulated population data. These non-solicitor roles include barristers, chartered legal executives, paralegals, case handlers – even “robot navigators” and “robotics developers”.

¹⁷ CILEx. *Commission on Justice in Wales. A submission by the Chartered Institute of Legal Executives (CILEx)*, June 2018, p2.

On an annual turnover basis, while Admiral Law cannot compete with the likes of Blake Morgan (UK turnover £73.3m) or Hugh James (£38.5m)¹⁸, it is certainly no legal minnow. According to its latest Companies House filing, Admiral Law Ltd turned over £18.44m in the financial year ending 31 December 2017, generating a pre-tax profit of £6.60m. Admiral's turnover figure is considerably higher than the Welsh legal sector norm, discussed previously. Moreover, its 35% profit margin illustrates how certain elements of the Welsh legal sector are in reasonable financial health.

Summary and conclusions

The regulated Welsh legal profession is heavily concentrated in South Wales, largely reflecting the wider Welsh general population. Despite this strong South Wales focus, we have nevertheless established that even niche legal specialisms are being successfully delivered elsewhere in the country – and also achieving industry recognition for that expertise. This suggests that elements of the Welsh legal profession are enterprising, and able to spot gaps in the market – without the need for Welsh Government encouragement or support.

We have been unable to establish, in the time allowed to undertake this rapid review, whether legal advice deserts exist within the Welsh legal sector. In light of the challenges of undertaking a wide-ranging evaluation of this issue on an all-Wales basis, we suggest that the Welsh Government take a narrow focus in any investigation it initiates.

We observe that the Welsh legal profession is disproportionately focused on private client-related legal services, when compared to England. We also note that several of these private client-focused legal specialisms are at risk of partial digitisation / de-lawyering. We do not believe that either of these facts, in themselves, justify Welsh Government intervention – unless an absolute failure of legal services provision occurs in Wales.

Although many Welsh law firms are relatively small, and only generate modest revenues, we are aware of several examples of Welsh legal practices – such as Admiral Law Ltd – which defy this stereotype. We suggest that the Welsh Government should actively promote this type of success story to the wider employment market, with a view to emphasising that there are a wide range of law-related career opportunities available in Wales, both traditional and non-traditional.

¹⁸ The Lawyer. *The Lawyer's top 200 UK law firms revealed*, 15 October 2018.

Chapter four: The Welsh university legal education sector

Below, we outline the top-level demographics of Welsh university law students during the 2016 / 2017 academic year, the latest year for which comprehensive data is available.

**Table four:
breakdown of Welsh law school student populations by study type, 2016 / 2017**

Institution	Undergraduate			Postgraduate			Grand total
	Full time	Part time	All	Full time	Part time	All	
Aberystwyth University	220	*	220	25	35	60	285
Bangor University	240	5	245	65	5	70	315
Cardiff University	1,025	40	1,070	260	185	445	1,515
Swansea University	895	*	895	215	30	245	1,140
University of South Wales	360	60	420	60	55	115	535
University of Wales, Trinity Saint David	10	*	10	*	*	*	10
Total Welsh universities	2,755	105	2,860	620	315	935	3,800

Source: HESA Student Records via the Welsh Government

*Denotes three students or less. All data is rounded up to the nearest five students.

In numerical terms, the “big two” Welsh universities – Cardiff and Swansea – are clearly the most impactful, in terms of their sheer ability to supply potential talent to the Welsh legal market. The combined undergraduate and postgraduate totals of Aberystwyth, Bangor, University of South Wales and University of Wales, Trinity Saint David is roughly 1,145 – almost exactly the same as Swansea University’s total, and around 370 less than the total for Cardiff University.

In terms of part-time study – which we understand the Welsh Government is keen to support as a desired pathway to improving take-up of academic legal education – few of the universities shown in table four score well at undergraduate level. Data from the UK’s Higher Education Statistics Agency (HESA) suggests that, across Wales, around 11% of all students studied for their first (undergraduate) degrees part-time in the 2016 / 2017 academic year¹⁹. But, also in relation to law specifically, only the University of South Wales (USW) exceeded that percentage for its undergraduate law course: as table four above indicates, 14.29% of this university’s students studied part-time during that academic year. By contrast, three universities listed in table four either had zero percentage (or close to) part-time take-up rate for their undergraduate law degrees (Aberystwyth, Swansea, University of Wales, Trinity Saint David) or less than 4% take-up (Bangor, Cardiff). This suggests that Welsh universities could do more to encourage the part-time study of law at an undergraduate level, simply to bring this specific degree up to norms at undergraduate level across Wales more widely.

¹⁹ HESA. *Figure 3- HE student enrolments by level of study 2013/14 to 2017/2017 – Wales only data.*

More positively, as table four above also shows, take-up of part-time legal studies is far more prevalent at postgraduate level in Wales – at least, at universities such as Aberystwyth (58.33% of all law students), Cardiff (41.57%) and USW (47.83%). These percentages are ahead of sector norms in Wales: according to HESA, 24% of all postgraduate students in Wales studied part-time during the 2016 / 2017 academic year²⁰. Less positively, just 7.14% of Bangor University students studied part-time at postgraduate level in 2016 / 2017, and 12.24% of students at Swansea University. The overall picture for part-time legal studies at postgraduate level is therefore variable across Welsh Universities.

The movement of legal talent

The higher education sector in Wales, including the legal education sector, is highly cross-border in its composition. To illustrate this point, HESA statistics show there were 129,585 first-year students enrolled in Wales-domiciled higher educational institutions in the academic year 2017 / 2018. Of those 129,585 students, 67,310 – just over half – came from Wales. A further 39,770 (just over 30%) came from England, and 975 (just over 0.75%) came from Scotland and Northern Ireland collectively. The remainder of students (21,350, just under 16.5%) came from international destinations²¹. Clearly, the Welsh higher education sector does not exist simply to serve the indigenous Welsh population.

Turning now to the legal sector: on a pan-England and Wales basis, data from the Law Society suggests that, in 2017 / 2018, roughly 20% of all students accepted onto undergraduate law degrees came from overseas, while around 80% came from the UK (4,755 out of 18,850)²². As table five below shows, on a university-by-university basis – using 2016 / 2017 data – equivalent percentages vary considerably on a Wales-only basis. At both of the “big two” Welsh universities – Cardiff and Swansea – Wales-domiciled students only accounted for less than half of their law student cohort. By contrast, both the University of South Wales (USW) and University of Wales, Trinity Saint David, catered for a noticeably more local student cohort. On a pan-Wales basis, around 43% of students studying law in the country in 2016 / 2017 were also domiciled in the country.

In light of the data shown in table five below, we can probably assume that – like the Welsh higher education sector as a whole – a strategy of “educate legal talent for export” forms a significant part of these universities’ business models. This, in turn, makes it very difficult to offer meaningful insights about whether the Welsh undergraduate law market is failing – particularly in relation to the desire (or otherwise) of law graduates from Welsh universities to seek law-related employment in the country. Realistically, given that more than half of all students studying law in Wales are from outside the country, how many of them ever intended to work in the Welsh legal sector locally? Unfortunately, we cannot answer this question – but we doubt that the majority would have.

²⁰ HESA. *Figure 3- HE student enrolments by level of study 2013/14 to 2017/2017* – Wales only data.

²¹ HESA. *Where do HE students come from? HE student enrolments by domicile*.

²² The Law Society. *Entry trends. Undergraduate and graduates in law*.

Table five: law students at Welsh universities, by domicile, 2016/17

	Aberystwyth University	Bangor University	Cardiff University	Swansea University	University of South Wales	University of Wales, Trinity Saint David	All (Full person equivalents**)
Wales	95	110	585	455	370	10	1,625
Rest of UK	130	100	525	360	45	*	1,165
Other EU	25	25	65	70	30	*	215
Non-EU	35	75	340	255	90	*	795
All	285	315	1,515	1,140	535	10	3,800

HESA Student Record, via Welsh Government

* denotes less than three students on a course.

** FPE takes account of students undertaking combined degrees and provides whole person equivalent totals.

Staying on the legal education point: another notable characteristic of the UK legal education sector is that, by no means, does it mainly exist to serve as a funnel for employment into the legal sector. HESA data states that, in the 2017 / 2018 academic year, 87,605 students were enrolled on undergraduate law courses across the whole of the UK²³. To put that figure in context, it is equivalent to more than 60% of all solicitors currently practising in England and Wales (139,624 in 2017 according to the Law Society²⁴). This dichotomy is also broadly replicated on a Wales-only basis. According to the above-mentioned HESA, there were a total of 3,740 students studying undergraduate law at Welsh universities in 2017 / 2018. This is broadly comparable with the entire practising solicitor population in Wales, which the SRA has informed us is around 3,500, and the Law Society believes is around 3,700²⁵.

Given this massive surplus of law graduates compared with legal sector jobs across England and Wales, it should not be surprising that many of these graduates do not ultimately enter the legal market as trainee solicitors or pupil barristers. Unfortunately, we have been unable to establish the percentage of undergraduates who studied law in Wales who later entered the legal market – this data is not available from StatsWales. However, we also note that, in their submission to the Justice Commission, Bangor University reported that it had previously attempted to quantify this percentage. The University's research suggests that roughly one-third of Bangor law graduates later entered the legal profession, compared with the two-thirds who pursued non-traditional legal careers²⁶ (the nature of which were not specified). Assuming such percentages are broadly replicated among other Welsh law schools, it is probably safe to assume that the qualified solicitor legal market in Wales does not suffer from a deficiency of law graduate talent. Quite the contrary, in fact: there appears to be massive oversupply of such talent, which the Welsh solicitor market could not hope to fill – even if it underwent a significant market expansion.

²³ HESA. Table 13 - HE student enrolments by HE provider and subject of study.

²⁴ The Law Society. *Annual Statistics Report 2017*.

²⁵ The Law Society. *Trends in the solicitors' profession annual statistics report*, June 2018, p11.

²⁶ Bangor Law School. *Submission to the Justice Commission from Bangor Law School*, 29 June 2018.

Where do Welsh law graduates go?

Unfortunately, we have been unable to obtain official data from the SRA regarding the locations where Wales-educated law students, who subsequently qualified as solicitors, later practised. Although the SRA approves law schools across England and Wales, it does not then track the career paths of individuals who graduate from its authorised law schools into legal practice. Nor does StatsWales / HESA.

What we can say, however, is that – among those students who completed law-related studies at Welsh universities in 2016 / 2017 – and later went on to full-time employment, around 56% did so in Wales, around 36% in England, and the remainder did so elsewhere. Yet again, this limited data – provided by StatWales / HESA – suggests that the Welsh legal education market is strongly geared towards the export of expertise from Wales, rather than simply serving Welsh legal education needs.

That said, it should be appreciated that the above finding only represents the destination of around one-third of all law students who graduated from Welsh universities in the 2016 / 2017 academic year. The eventual destination of around a third of that year's cohort is entirely unknown to StatsWales / HESA, while the remainder were either mainly engaged in further study (around 22%), or could not be disclosed due to data protection / privacy considerations. We should therefore treat the above finding regarding subsequent full-time employment destinations with a degree of modest caution, in terms of whether it reflects the eventual employment destination of all Welsh law school leavers.

In the absence of official data, we have further explored the issue of where Welsh students "go" in relation to the legal sector by using the – albeit imperfect – alternative proxy data source of LinkedIn. Anecdotally, our research indicates that Welsh legal sector employers are significant recruiters of Welsh graduates, be they law graduates or otherwise. Table six, below, illustrates this point by reference to some of Wales' larger sector employers.

Table six: Welsh legal practices recruit heavily from Welsh Universities

Law firm	Number of LinkedIn profiles associated with law firm in Wales	Number of LinkedIn profiles where individuals studied in Wales
Blake Morgan	136	58
Capital Law	106	69
CJCH Solicitors	56	44
Geldards	130	55
Howells Solicitors	84	60
Hugh James	377	218
NewLaw Solicitors	222	123

Source: LinkedIn

Professional qualifications in Wales: supply and demand

Among those students who complete their professional lawyers' training in Wales, most do so at Cardiff University. According to the latest edition of the *Chambers Student* legal guide, Cardiff University has a total of 220 places for the solicitors' main route to qualification, the legal practice course (LPC). The two other SRA-approved Welsh LPC providers²⁷, USW and Swansea University, offer 60 and 100 LPC places respectively²⁸.

In reality, the number of LPC places available in Wales is probably a more reliable indicator of how many students studying law in Wales ultimately wish to then enter legal practice. This is because the LPC is essentially a vocational qualification, which is intended to put students completing the course on a direct path to qualification as a solicitor registered in England and Wales. In this context, the total number of training contracts available in Wales, 146 in 2016²⁹, indicates that a significant gap exists between Welsh LPC supply and local demand for LPC candidates. Given that the *Chambers Student* data indicates that there are 380 LPC places available at Welsh universities, we can estimate that there are roughly 2.6 students studying for the LPC in Wales for every training contract available in the country – albeit acknowledging that this ratio uses data covering slightly different time periods. Overall, this data strongly suggests that many students who study the LPC in Wales will not subsequently have the opportunity to commence a training contract in the country. However, what we cannot say is the extent to which those students, who successfully complete their LPC in Wales, were then able to obtain alternative legal sector employment – such as paralegal work locally, or a training contract in England. Here, it is arguably relevant that the vast majority of SRA-approved training contracts are available in England, not Wales.

To illustrate the scale of the discrepancy in training contract opportunities between England and Wales: as previously stated, in 2016 (the last year for which Welsh-specific SRA data is available), a total of 146 training contracts were being undertaken in Wales. However, according to Law Society data, a total of 5,719 new traineeships were registered in the year ending 31 July 2017³⁰. Allowing for modest inter-year variations between these two data points, this suggests that Welsh training contracts account for around 2.6% of the England and Wales total. We would therefore not be surprised if there was a significant cross-border flow of Wales LPC qualifiers into England, in search of training contracts that are not available locally.

The limited opportunities to qualify as a solicitor in Wales are also replicated in relation to the Welsh barristers' profession. According to the *Chambers Student* directory, 84 bar professional training course (BPTC) places³¹ are available at the sole authorised Welsh training provider, Cardiff University³². This figure is far in excess of the number of Welsh pupillages – the equivalent to solicitors' training contracts – made available during the most recent pupil barristers' recruitment round. According to the Bar Council's centralised "Pupillage Gateway", just nine pupillages were offered in the latest round of Welsh chambers' recruitment, which runs between October 2018 and September 2020. Of these recently begun and soon-to-be commenced pupillages, two were made available at each of 9 and 30 Park Place in Cardiff, two at each of Angel and Iscoed Chambers in Swansea, and one at Civitas Law in Cardiff. To put these nine Welsh pupillages in context, data from the Bar Standards Board suggests that 473 pupillages³³ commenced in England and Wales as a whole, during the time period covering 2017 / 2018. Welsh pupillages therefore account for around 2% of the English and Welsh total.

²⁷ SRA. *Legal practice Course (LPC) providers*.

²⁸ *Chambers Student. LPC providers compared*.

²⁹ SRA data provided to Jomati.

³⁰ Law Society. *Entry trends. Periods of recognised training*.

³¹ *Chambers Student. BPTC providers compared*.

³² Bar Standards Board. *BPTC Providers*.

³³ Bar Standards Board. *Pupillage statistics*.

On a “new pupillage per qualified existing barrister” basis, the availability of pupillages in Wales is broadly comparable with England and Wales as a whole, and equates to a ratio of around 33 to one (35 to one in England). As previously stated, while there are in excess of 16,000 barristers across the whole of England and Wales, just 300 are known to operate in Wales. However, when making an – albeit imperfect – comparison between the number of BPTC candidates being taught in any one year – and the commencement of new pupillages over a similar timeframe, the situation in Wales is noticeably worse than in England and Wales more broadly. Across both countries, there is roughly one pupillage for every six BPTC places available (i.e. 473 commencements for 2,908 places available³⁴). By contrast, in Wales specifically, that ratio is – roughly – one in nine. Of course, there is currently nothing to prevent former BPTC students, who have successfully completed their course in Wales, from then seeking pupillages in England.

The relevance of the above data to the Welsh jurisdictional issue

As the above observations make clear, the Welsh post 18-legal education sector does not solely exist to provide training for the Welsh legal profession. Both the supply of law undergraduates and, indeed, the supply of the LPC and BPTC completers, who study at Welsh universities far exceeds the capacity of the Welsh legal market to absorb them.

At present, this oversupply can be mitigated, at least to some extent, because those educated in law in Wales can move freely to seek employment and / or qualification in England, should they wish to. As will be discussed more extensively in chapter 12 of this report, Welsh law schools tend to teach law with a strong focus on English and Welsh law collectively. To the extent that Wales-only law is taught, it tends to be on a comparative basis, rather than exclusively.

Lawyer relocation to Wales, in order to establish new legal practices in the country

Regrettably, we have not been able to secure access to data which can offer empirical insights regarding the lawyers who establish new legal practices in Wales, after previously working outside of the country. However, in the course of conducting interviews with law firm leaders, we nevertheless noted a small number of Welsh law firm founding partners who had made this journey. Some of the individuals we interviewed had been educated in Wales and later returned to establish a law firm in the country, after previously working in England. Others had moved to Wales for the first time and established a law firm in the country despite never having previously lived there.

Notably, those individuals we encountered typically offered personal reasons for moving to Wales. Moreover, these personal reasons had overridden their – explicitly stated – reservations about whether it made business sense for them to establish a firm in the country. Given that the examples we have noted are few in number, we should be wary of drawing any wider conclusions about whether the explanations for these individuals relocating to Wales are representative of others who have done so. Nevertheless, we believe this feedback is worth sharing with the Welsh Government – precisely because it indicates that it would be very difficult for the Welsh Government to persuade additional law firm entrepreneurs to establish in the country.

Also notably, among those individuals we spoke to, it was suggested that a lack of suitable available talent – both in terms of specific practice area expertise and an entrepreneurial mindset – was inhibiting the further expansion of their business in Wales. “What inhibits us isn’t anything that the Welsh Government can do anything about,” said one of these individuals, pointedly.

³⁴ Chambers Student. *BPTC providers compared*.

Innovation in the legal academic marketplace

Currently, in order to be a “qualifying law degree”, the contents of undergraduate law courses in England and Wales are heavily constrained by the two main legal regulators, the SRA³⁵ and the Bar Standards Board³⁶. These restraints are due to be lifted in 2021 in relation to potential solicitors, when the new Solicitors Qualifying Exam (SQE) becomes the new gateway into the profession and the exact composition of law degrees is deregulated³⁷. However, even within the constraints of the existing legal education system, each university has its own unique focus, in terms of courses offered or benefits delivered. For example, in Wales, Bangor University is unusual in that it offers a specialist master’s degree in public procurement law and strategy – a specialism that may be of direct interest to Welsh Government officials. Meanwhile, students at the University of South Wales (USW), who also work at the University’s advice clinic, are able to work towards a Legal Technology Core Competency certificate, known as LTC4³⁸. LTC4 was brought to Wales, partly thanks to the support and engagement of Welsh Government officials.

In terms of significant developments within the Welsh legal education sector, arguably the most notable in recent times was Swansea University’s recent push into LegalTech. In August 2017, the University launched the Centre for Innovation and Entrepreneurship in Law (CIEL), with the stated intention of “rethinking the nature of legal education and practice and promoting the acquisition of high-level skills related to technology-driven legal practice”. At undergraduate level, Swansea University law students can now study “coding for lawyers” modules. At postgraduate level, the University now offers both an LLM in LegalTech and an MA in Cyber Crime and Terrorism. The LLM modules include subjects such as AI and law, big data and data mining, and blockchain. The MA modules include crime in cyberspace, online propaganda and radicalisation.

It is our understanding that Swansea University decided to take a lead in relation to LegalTech after a Welsh Government-led initiative to create a Centre of Innovation in the Business of Law failed to materialise.

In terms of the Welsh legal market’s awareness of the Swansea University LegalTech initiative, our conversations with legal practice leaders suggests a reasonable knowledge of its existence. However, we are less certain about the extent to which law firms in Wales are planning to alter their recruitment behaviours to actively encourage the success of the course. For example, we are aware that Acuity Legal has partnered with Swansea University in relation LegalTech³⁹. However, our discussions with other law firm leaders in Wales have not uncovered additional examples of legal practices following Acuity Legal’s lead. Also problematically, we were reminded – on more than one occasion – that many law firms with a presence in Wales actually base their support functions – where LegalTech experts are likely to be located – outside the country. Therefore, the importance of Swansea University as a source of local LegalTech talent for the Welsh legal market may be less significant than first impressions indicate.

³⁵ SRA. *Qualifying law degree providers*.

³⁶ www.barstandardsboard.org.uk/qualifying-as-a-barrister/bar-training-requirements/academic-learning-component/academic-component-documents/.

³⁷ SRA. *Common protocol on the academic stage of training, November 2018*.

³⁸ Legal Support Network. *What is LTC4 and why should lawyers know about it?* 27 March 2017.

³⁹ TSR. *TSR Legl Meets...Rachelle Sellek– Managing Partner at Acuity Legal*.

More positively, our discussions across the legal services sector has left us with the impression that the Swansea LegalTech course is not wholly dependent on take-up from Welsh students, or support from Welsh law firms, for its ongoing existence. With this in mind, we suggest that the Welsh Government might wish to actively promote Swansea University's innovative courses to the global market, via its 21 international trade and investment offices. It is our understanding that fully-fledged university LegalTech courses are relatively rare at law schools, globally. What Swansea University is doing is therefore distinctive, and worthy of international promotion. We cannot imagine that the University would object to active Welsh Government promotional support.

Supporting Swansea University in relation to its LegalTech educational efforts would also, we suggest, be compatible with the Welsh Government's Economic Action Plan (EAP). The EAP, it should be noted, aims to support innovation, high quality employment, skills development, R&D, automation and digitalisation.

Conclusions and recommendations

Overall, the Welsh legal education sector is producing a surfeit of legal talent in Wales, both in relation to undergraduate law students and also those seeking to enter the legal profession specifically. While many Welsh graduates have successfully obtained employment at Welsh law firms, we also strongly suspect that many others have looked elsewhere for employment – particularly in England. Positively, we believe that this means that the Welsh legal market has significant capacity for future expansion, without there being any significant risk of a labour shortage occurring.

Whether such an expansion might occur, simply by relying on the initiatives of individual lawyers to establish legal practices in Wales, is another matter. An alternative approach for delivering such growth is discussed further in chapter six.

While we are generally reluctant to endorse governments "backing winners", we see a reasonable justification for the Welsh Government actively supporting Swansea University's LegalTech initiative – not least because its activities appear compatible with the Welsh Government's EAP objectives. At present, the course remains a genuine point of differentiation in the legal education space, both within Wales and also more widely. We are certain that Swansea University personnel would not object to any offer of marketing support that the Welsh Government might offer, especially active promotion via the Welsh Government's international trade and investment offices.

Chapter five: Legal apprenticeships in Wales – the current state of play and possible future direction

When conducting our interviews with law firm leaders, several mentioned to us that they were confused about the current status of legal apprenticeships in Wales. The issue of legal apprenticeships in Wales was also raised by one of the respondents to our online survey, who requested that we “support the Law Society in Wales to push for legal apprenticeships as an alternative route to being a qualified lawyer.”

In light of this – albeit modest – Welsh legal sector interest in apprenticeships, we have concluded that it would be useful for us to investigate the provision of such apprenticeships as part of our evaluation of Welsh Government support to the Welsh legal sector. We have undertaken this review in three stages: firstly, we have sought to understand how the apprenticeship model – in general – works in Wales. Secondly, we have sought to understand the current take-up of law-specific apprenticeships – and similar qualifications – in the country. Having completed those two preliminary investigations, we then feel able to make recommendations on how we believe that legal apprenticeships, and similar qualifications, should be supported by the Welsh Government in the future.

Apprenticeships in Wales generally

In Wales, we understand that there are – essentially – four types of apprenticeships⁴⁰. These are:

- **Foundational apprenticeships.** These provide on-the-job training and an industry-recognised qualification, equivalent to a level 2 NVQ or five GCSEs
- **Apprenticeships.** These are largely work-based schemes, in which attendance at college will be required one or two days per week. These apprenticeships are equivalent to two AS-levels, one A level, a level 3 NVQ, or a Credit and Qualifications Framework (CQFW) level 3 qualification
- **Higher apprenticeships.** These are typically found in industries which combine academic and practical elements. They are the equivalent to the first stages of higher education, but can be studied up to master’s degree level. Consequently, they can be studied from CQFW level 4 up to CQFW level 7
- **Degree apprenticeships.** These apprenticeships amount to a partnership between an employer and a college / university. They can take between one and six years to complete, and are equivalent to a full bachelor’s or master’s degree. They are studied at CQFW level 6-7

The contents of apprenticeship qualifications, in both Wales and England, are highly structured: the requirements of an apprenticeship are set out in recognised “apprenticeship frameworks”. These frameworks set out the amount of learning required by an apprentice, the accredited qualification to be achieved and the total amount of on and off-the-job training that the apprentice must complete. Apprenticeships are concluded when a person meets conditions set out in the Apprenticeships, Skills, Children and Learning Act 2009⁴¹.

⁴⁰ Prospects.ac.uk. *Apprenticeships in Wales*, December 2017.

⁴¹ Law Wales. *Apprenticeships. Overview*.

From our review of official statements on this topic, we understand that the Welsh Government intends to prioritise apprenticeships at level 4 or above “where returns tend to be higher”⁴². Beyond that, we understand that the Welsh Government has recently begun to pilot degree-level apprenticeships at level 6 – but only focusing on information, communications and technology / digital / cyber subjects and, shortly, engineering. We understand that supporting courses will be provided by seven Welsh universities: Bangor, Cardiff Met, Swansea, Trinity Saint David, the Open University, Wrexham Glyndŵr and the University of South Wales. The supported courses would be those that the Welsh Government believes have the highest growth potential. These include IT, engineering and advanced manufacturing⁴³. The Welsh Government informs us that there “are no plans to introduce level 7 apprenticeships in any sector area.”

It is our understanding that all apprenticeship frameworks in Wales will be reviewed over the next three years, and that the plan is to move “towards a high-level structure of 20 – 30 maximum”. It has been suggested that an “emerging model for a framework in Wales is one covering an occupation in its broad entirety”⁴⁴. By contrast, we understand that the UK Government intends to withdraw all current apprenticeship frameworks by the 2020 / 2021 academic year in England⁴⁵. There is, therefore, likely to be a divergent approach to apprenticeships in England and Wales in the next few years.

Legal apprenticeship in Wales

Information provided to us by the Welsh Government suggests the following legal apprenticeship frameworks currently exist in Wales:

- Legal advice level 2 apprenticeship – essentially “legal signposting advisors”
- Legal advice legal 3 apprenticeship – generalist legal advisor / caseworkers
- Courts, tribunal and prosecution operations level 2 – essentially an administrative role
- Courts, tribunal and prosecution operations level 3 – essentially an operations role
- Probate law level 4 – probate technicians can work on non-contentious matters
- Higher apprenticeship in conveyancing level 4 – conveyancing technician
- Higher apprenticeship in conveyancing level 6 – conveyancer

Separately, we have recently been made aware of a Wales-specific level 7 higher apprenticeship in legal practice, issued on 23 March 2015⁴⁶. However, that framework (ID number F303202) is currently listed as “archived”. The awarding organisation for this qualification, SFJ Awards, does not currently list this qualification on its website. We therefore assume that this qualification is no longer available to candidates⁴⁷.

⁴² Welsh Government. *Skills Minister outlines plans for aligning Apprenticeships to the needs of the Welsh Economy*, 7 February 2018.

⁴³ Welsh Government. *Degree Apprenticeships offer best of both worlds*, 18 March 2019.

⁴⁴ Beyond Standards. *Maximising the value of apprenticeships in Wales*. January 2019, p17.

⁴⁵ Gov.uk. *Withdrawal of apprenticeship frameworks*. 2 March 2016.

⁴⁶ <http://www.afo.sscalliance.org/frameworks-library/index.cfm?id=FR03202>.

⁴⁷ <http://sfjawards.com/portfolio-category/legal-and-financial-services/>.

The Welsh Government has stated that it is “committed to work proactively with employers and representative bodies in the legal sector on apprenticeship developments up to level 5” – i.e. that of a foundational degree / HND⁴⁸, but not full undergraduate degree level. Here, it may be relevant that we understand that the Welsh Government is keen to explore part-time law degrees further – an alternative approach to delivering work-based legal training to that of apprenticeships. It is for this reason that we (briefly) assessed the current provision of part-time undergraduate and postgraduate law degrees in Wales in chapter four of this report. In this chapter, we highlight that the take-up of part-time undergraduate law courses in Wales is relatively low, compared with undergraduate courses in Wales more generally.

Legal vocational training in Wales: the alternative route offered by CILEx

In a brief “Legal sector skills workshop” report, provided to us by the Welsh Government, it was noted that “in the past, CILEx were included in apprenticeship frameworks”⁴⁹. In light of this comment, we concluded that it would be useful for us to explore CILEx’s legal vocational training activities in this chapter, both generally and by reference to the organisation’s activities in Wales.

A further examination of this issue caused us to discover that CILEx offers a variety of vocational qualifications that are intended to provide entry into the English and Welsh legal profession.

These routes into the legal profession comprise:

- Level 2 certificates / diplomas for legal secretaries
- Level 2 “introductory” qualifications in legal studies
- Level 3 apprenticeships in law, leading to a paralegal qualification
- Courts, tribunal and prosecution operations level 3 – essentially an operations role
- Level 3 diplomas in law and legal skills
- Various level 3 certificates in relation to specific practice areas, covering civil litigation, employment, family, private client and property law
- Level 3 “competence qualifications”, offering a certificate in law and practice and a professional diploma in law and practice
- Level 6 professional higher diploma in law and legal practice, plus graduate fast track

CILEx has recently withdrawn its level 4 qualifications, which covered specific areas of law⁵⁰. We are not sure why these specific qualifications have been withdrawn. However, in itself, this type of reorganisation of CILEx qualifications is not an unusual development: for example, CILEx recently ceased its partnership with the City and Guilds in relation to its legal secretaries, legal studies and legal administration programme. Following a strategic review, these qualifications were bought “back into the CILEx portfolio”⁵¹. Additionally, CILEx advanced apprenticeships in legal services will cease by April 2020. We understand that this qualification may have been withdrawn due to lack of local take-up.

⁴⁸ The Welsh Government. *Credit and Qualifications Framework for Wales*, September 2017, p4.

⁴⁹ The Welsh Government. *Legal sector skills workshop: report*, 20 February 2019, p1.

⁵⁰ www.cilex.org.uk/study/lawyer_qualifications/level_4_qualifications.

⁵¹ CILEx. *CILEx/City & Guilds Qualifications – Transfer of qualifications*.

More generally, in Wales, several accredited institutions act as study centres for CILEx courses. Current providers, their locations, and the CILEx qualifications offered at these venues, are listed in table seven below.

Table seven: Approved CILEx study centres in Wales, their locations and qualifications offered

Provider	Location	Qualifications (s) offered
Cardiff and Vale College	Cardiff	Level 3 Professional Diploma in Law and Practice Level 6 Professional Higher Diploma in Law and Practice and Graduate Fast Track
Cardiff College Online	Cardiff	As above
Coleg Gwent	Newport	As above
University of Wales, Trinity St David	Carmarthen, Swansea	As above

Source: CILEx

Take-up of legal apprenticeships in Wales

Returning now to legal apprenticeships in general: the Welsh Government has provided us with various data sources regarding the take-up of legal apprenticeships in Wales. The overall numbers we were provided with suggests that take-up has been exceptionally small. Between 2013 and 2018, just 55 legal apprenticeships – at all levels – are known to have been started. This compares with 31,360 apprenticeships started on an all-Wales basis, in just one year – 2017 / 2018⁵². In this context, we quite understand why the Welsh Government might not regard legal apprenticeships as a priority area of focus.

Indeed, even within the legal profession itself, the importance of legal apprenticeships as a route into the Welsh legal profession might charitably be described as “marginal”. This is because the 55-strong, multi-year, legal apprenticeship cohort total compares extremely unfavourably with law degrees (3,740 law students studying law at undergraduate level in Wales in 2017 / 2018), LPC training places (380 available at Welsh universities) and – crucially – training contracts (146 places available in 2016, the most recent year for which data is available)⁵³.

More importantly, as a route into the Welsh legal profession, apprenticeships appear to be becoming even more marginal, not less. Below are unverified legal apprenticeship totals⁵⁴, displayed on an individual apprenticeship level basis, for the period 2014 – 2018. Granular data for 2013 / 2014 is not shown in the table below, because it is not available. However, we understand the overall total for this year is 22. There is some uncertainty as to whether the total for 2016 / 2017 is three or four new starters. In both cases, the precise details are not important. What is important is that there has clearly been a sharp collapse in legal apprenticeship take-up in recent times, even from an already low base.

⁵² StatsWales. *Apprenticeship learning programmes started by quarter, region of domicile and programme type – academic year 2017 / 2018*.

⁵³ Jomati. *The legal sector in Wales – a rapid review. Part one*, March 2019, p22 – 23.

⁵⁴ The Welsh Government. *Legal sector skills workshop: report*, 20 February 2019, p1.

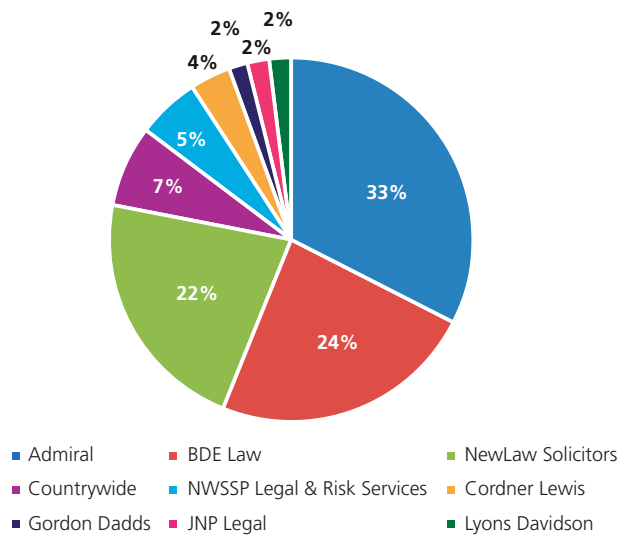
Table eight: apprenticeship totals and levels, year on year

Year	Level 2	Level 3	Level 4	Total
2014 / 2015	0	2	23	25
2015 / 2016	0	1	0	1
2016 / 2017	0	3	0	3
2017 / 2018	0	0	0	0

Source: The Welsh Government

Why might the total number of legal apprenticeships have collapsed in recent years? The (unverified) data provided to us by the Welsh Government seems to offer a fairly straightforward explanation. Essentially, Welsh legal apprenticeships appear to have been launched with a very small number of industry backers – just nine legal practices in total (two of which – Admiral and BDE Law – were related organisations). This core cohort did not then notably diversify in later years, to include a larger number of additional Welsh legal sector employers. Consequently, when the most enthusiastic early backers of the Welsh legal apprenticeship programme later scaled back on their learner totals, this caused the overall year-on-year totals to collapse. For example, Admiral’s (unverified) apprenticeship starter total fell from 10 in 2013 to six in 2014 and two in 2016, before ceasing entirely. Similarly, NewLaw’s (unverified) apprenticeship total fell from a peak of eight in 2014 to one in 2015, and none in subsequent years. It is our understanding that the pass rate among pilot candidates was not high⁵⁵. This may explain the lower candidate numbers in later years.

Figure five: the uneven distribution of legal apprenticeship employers, 2013 – 2017



Source: The Welsh Government

⁵⁵ Ibid, p1.

Where now for legal apprenticeships in Wales?

As previously mentioned, it is our understanding that the main focus of the Welsh Government will, in the future, be on level 4 apprenticeships and above. But, in relation to the legal sector specifically, it is our understanding that support for legal apprenticeships is slightly more wide-ranging, covering qualifications from levels 2 to 5 inclusive. This, it is intended, will allow for progression up the qualifications ladder. Whether, going forward, this broader level of Welsh Government support translates into greater take-up of legal apprenticeships in Wales remains to be seen. As previously indicated in table eight above, the greatest take-up of apprenticeships in Wales was at level 4 level, rather than at levels 2,3 or 5.

Of course, it is possible that the future take-up of legal apprenticeships in Wales could be noticeably different – and more successful – to that which has occurred previously. It is notable from figure five above that many of Wales’ largest law firms did not appear to take part in the legal apprenticeship programme, which was dominated by “new law”-style “alternative” Welsh legal practices. More positively, during our discussions with the more traditional Welsh law firms – conducted as part one of our research – we understand that a working group has been created, with a view to exploring a common approach which might ultimately resuscitate the Welsh legal apprenticeship scheme. In the event that these firms come on board – and if the likes of Admiral / BDE and NewLaw could also be persuaded to restart their legal apprenticeship schemes – it may be possible to bring the Welsh legal apprenticeship scheme back to life. We therefore encourage the Welsh Government to continue its engagement with the Welsh legal private practice community – both “traditional” and “new law” and public sector employers, with a view to establishing whether there is sufficient demand for legal apprenticeships in Wales to allow them to be restarted. This is, we suggest, one example of where a pro-active Welsh Government engagement with the legal sector, coupled with active self-organisation by the Welsh legal profession – may yield tangible results.

In terms of reducing structural inhibitions to the take-up of legal apprenticeships in Wales, it's possible that the “rule barrier” may also be preventing some potential candidates from taking up places. To explain: it is our understanding that anyone who has already completed a law degree cannot undertake further training in the legal sector via an apprenticeship. We are aware that this specific rule effectively prevented one major Welsh employer from putting up to 60 potential candidates through a conveyancing apprenticeship scheme, because those potential candidates already had law degrees. The complaint about this rule is that, while a law degree offers students a generic understanding of a topic, a specialist apprenticeship scheme equips candidates with specific skills to undertake a particular task⁵⁶.

Instinctively, we are sympathetic to the removal of barriers that prevent potential candidates from undertaking training that is directly relevant to their employment – even if it is at a lower level of educational attainment than that for which a candidate is already qualified. Fundamentally, we believe that whether a candidate studies for a vocational qualification should be a decision that they and their employer take, uninhibited by artificial barriers imposed by the state. For that reason, we would be comfortable if the Welsh Government was able to remove this specific barrier to legal apprenticeship take-up. That said, we also recognise that such a development may have significant budgetary implications – especially if implemented on a multi-sector basis.

⁵⁶ The Welsh Government. *Legal sector skills workshop: report*, 20 February 2019, p4.

More generally, we also recognise that there is an inherent tension between highly-focused apprenticeships, designed to enable candidates to undertake specific tasks, and broader apprenticeships that might have an appeal within the industry. Here, we also note the Welsh Government's preference of moving towards broader, industry-wide frameworks. If implemented, then it is possible that a broader legal apprenticeship qualification may increase demand among candidates who would prefer to obtain a broad qualification, while simultaneously suppressing demand among potential candidates who would be interested in studying for a niche apprenticeship qualification. Perhaps the only way to square this circle is for any future replacement industry-wide legal apprenticeship framework to be strongly influenced by the needs of those legal practices in Wales that are most likely to employ legal apprenticeships in the future. Not so much a case of "build it and they will come", but "have a clear understanding of which legal sector candidates / employers are most likely to sign up, and design a top-level qualification accordingly."

Take-up of CILEx, and similar vocational qualifications, in Wales

In its submission to the Justice Commission, CILEx mentions that it has more than 1,000 CILEx members who "live in or adjacent to Wales"⁵⁷. This observation led us to explore how popular CILEx vocational courses might be in the country. We explored this issue by extracting data regarding "vocational and other qualifications" that are currently "available to learners" in relation to "law and legal services" from the Qualifications Wales website. Tables nine and 10 below shows how many certificates were issued annually, for each law-related vocational training qualification, between 2013 – 2018. In order to distinguish between currently popular qualifications, and previously popular qualifications, table nine identifies those qualifications where at least one certificate was issued in 2018. By contrast, table 10 identifies those qualifications where no completion certificates were issued in 2018, but had been in the previous five years.

Having collated the Qualifications Wales data, we discovered that the qualification completion totals, shown in tables nine and 10 below, were surprisingly high, considering that they were supposed to show Wales-only totals. For that reason, we queried the accuracy of the data with Qualifications Wales personnel. In response, we received confirmation that we should – indeed – treat the figures we obtained with caution. This was because "in the context of distance learning it is entirely possible that non-Welsh learners are technically being assessed at centres located in Wales despite not actually being based in Wales." It was further noted that "having noticed this potential discrepancy, we have been working with awarding bodies to improve the definition of Wales VQ certificates going forward (trying to incorporate a learner postcode wherever we can)".

⁵⁷ Justice Commission. *A submission by the Chartered Institute of Legal Executives (CILEx)*, June 2018, p2.

Table nine: currently popular vocational legal training certificates issued within Wales, 2013 – 2018

Awarding body	Qualification title	2018	2017	2016	2015	2014	2013	Grand total
CILEx	CILEx Level 6 Certificate in Law	150	140	240	120	0	0	500
Pearson	Pearson BTEC Level 3 Certificate in Applied Law (QCF)	115	115	85	85	20	40	345
Pearson	Pearson BTEC Level 3 Subsidiary Diploma in Applied Law (QCF)	85	75	70	65	15	50	275
Pearson	Pearson BTEC Level 2 Certificate in Law and Legal Work	20	35	70	30	10	40	185
CILEx	CILEx Level 3 Certificate in Law and Practice	40	40	60	35	0	0	135
CILEx	CILEx Level 6 Diploma in Legal Practice	30	15	35	10	0	0	60
CILEx	CILEx Level 3 Certificate In Civil Litigation	10	15	25	10	15	0	65
CILEx	CILEx Level 3 Diploma in Law and Practice	15	15	25	20	0	0	60
CILEx	CILEx Level 3 Certificate in Property	5	0	15	10	10	0	35

Source: Qualifications Wales

We are naturally disappointed that it is not therefore possible for Jomati to properly evaluate the popularity of the various CILEx legal vocational qualifications in Wales. However, we do not believe our initial analysis has been an entirely wasted exercise. This investigation has led us to make a number of observations about legal vocational qualifications that we would not otherwise have discovered. We believe those observations are worth sharing with the Welsh Government, because they appear to be directly relevant to the debate on the future of legal apprenticeships in the country. For example, we have discovered that, in addition to CILEx, Pearson also appears to be an important figure in the English and Welsh legal vocational training market. By contrast, the Cardiff-based Agored Cymru appears to have withdrawn from this market. Presently, no law-related qualifications are listed on this organisation's website.

We also note the consistent popularity of CILEx's two level 6 legal vocational qualifications in recent years. These qualifications are, notably, one level higher than level 5 – the maximum which the Welsh Government has pledged to support in relation to legal services. This suggests that this higher level of apprenticeship might be worthy of Welsh Government support, going forward. That said, we are also aware of recent research undertaken by the Managing Partners' Forum, which suggested that "the massive increase in level 5 to 7 apprenticeships" may be because "much of this is labelling 'trainees' as 'apprentices'."⁵⁸ If true, this discovery further complicates our attempts to gain an accurate picture of the current state of the legal apprenticeship market.

⁵⁸ Managing Partners Forum. *2019 survey on the UK apprenticeship levy*, p1.

Table 10: previously popular vocational legal training certificates issued within Wales, 2013 – 2018

Awarding	Qualification title body	2018 total	2017 total	2016 total	2015 total	2014 total	2013 total	Grand total
Agored Cymru	Agored Cymru Level 2 Award in Taking Control of Goods	0	90	0	0	0	0	90
Agored Cymru	Agored Cymru Level 2 Award In Employment Rights and Responsibilities (QCF)	0	0	10	25	15	0	50
CILEx	CILEx Level 2 Certificate in Legal Studies	0	0	0	15	40	15	70
CILEx	CILEx Level 3 Certificate in Family Practice	0	10	5	5	10	0	30
CILEx	CILEx Level 2 Diploma in Legal Studies	0	5	15	5	0	0	25
Agored Cymru	Agored Cymru Level 4 Award in Advice, Guidance and Employment Related Services in Wales (QCF)	0	0	0	0	20	0	20
CILEx	CILEx Level 2 Award in Legal Studies	0	0	0	5	0	10	15
CILEx	CILEx Level 6 Diploma in Law and Practice	0	10	0	5	0	0	15
SQA	SQA Level 2 Certificate in Knowledge of Court/Tribunal Administration	0	0	0	0	10	0	10
CILEx	CILEx Level 3 Certificate in Private Client Practice	0	5	0	0	0	0	5
CILEx	CILEx Level 3 Certificate in Employment Practice	0	5	0	0	0	0	5
SQA	SQA Level 2 NVQ Diploma in Court/Tribunal Administration	0	0	0	0	5	0	5
Agored Cymru	Agored Cymru Level 3 Award in Advice, Guidance and Employment Related Services in Wales (QCF)	0	0	0	0	5	0	5

Source: Qualifications Wales

Conclusions and recommendations

Data provided to us by the Welsh Government suggests that the take-up of legal apprenticeships in Wales has been very low, and ceased entirely in 2017 / 2018. However, the Qualifications Wales data suggests that there is clearly a market for legal vocational qualifications. True, the qualifications offered by the likes of Agored Cymru have fallen out of favour in recent years. However, those qualifications offered by the likes of CILEx and Pearson have not. We therefore suggest that any future debate about legal apprenticeships in Wales should take account of the popularity of the qualifications offered by these two particular providers. One option open to the Welsh Government might be to create a legal apprenticeship qualification that is distinctive from that offered by CILEx and Pearson, in order to encourage greater competition within the market. Another option might be to invite CILEx and Pearson to tender to deliver any future legal apprenticeship framework, on the basis that both organisations have a proven track record in this area.

More generally, we suggest that the quality of existing data regarding legal apprenticeships in Wales is currently poor, and not ideally suited to informed policy-making. We therefore suggest that the Welsh Government undertake a two-stage review process of the data available to it, as a prelude to any review of legal apprenticeships in Wales.

Firstly, we suggest that the Welsh Government should obtain clarity about the extent to which higher level legal apprenticeships are, in fact, simply re-badged trainee positions. In light of its research into this subject, the Managing Partners' Forum might be a suitable partner organisation to assist with the gathering of such insights. Only if the Welsh Government satisfies itself that higher level apprenticeships are not, in fact, re-badged trainee positions, should it consider extending its support for legal apprenticeships from level 5 to level 6.

Secondly, we suggest that the Welsh Government should attempt to obtain greater clarity about which legal vocational qualifications are currently the most popular in Wales – based on the home location of the candidate being assessed, rather than the location of the assessment centre. Once again, such an evaluation will help establish the nature of the market for legal apprenticeships in Wales.

Only when both of these exercises are complete should the Welsh Government attempt to produce a new legal vocational qualification framework for Wales. When determining the contents of that framework, we suggest that the principal role of the Welsh Government should be to facilitate the delivery of qualifications for which there is clearly demand.

Chapter six: Welsh Government support for the legal sector

During our research process, we observed several examples of previous Welsh Government support for the Welsh legal sector. Some of this support was legal sector-specific, while other support was offered to the Welsh professional services sector as a whole. Below, we outline what we regard as the most important support mechanisms that we have been able to identify in the time available to undertake this rapid review. We also offer our analysis of these support mechanisms' outcomes, together with some suggestions for future Welsh Government activity.

Cardiff Central Enterprise Zone

The overall purpose of the Cardiff Central Enterprise Zone (CCEZ) was to help “create one of the UK’s premier locations for the financial and professional services sector, with the aim of attracting new investment, facilitating the development of new high-quality offices, other supporting infrastructure and to create new high-quality sustainable jobs”⁵⁹. In relation to the legal sector, the advent of the CCEZ undoubtedly yielded modest success. The new infrastructure developments that the CCEZ facilitated enabled law firms with an existing Cardiff presence – notably Blake Morgan⁶⁰ and Hugh James⁶¹ – to relocate to higher quality offices within the city. Having relocated to within the CCEZ’s boundaries, these firms arguably now form the basis of a legal “hub” for Cardiff, which also includes the likes of Eversheds and Lewis Silkin. These latter two firms’ central Cardiff presence pre-dates the existence of the CCEZ.

In addition to helping facilitate the development of new high-quality office space in central Cardiff, another objective of the CCEZ was “aimed at generating new inward investment opportunities (by attracting middle and back office functions from London)”⁶². Here, the CCEZ’s most notable success was in relation to the accountancy sector: Deloitte’s Cardiff-based Nearshore Delivery Centre (NDC), which opened in December 2015⁶³. Deloitte, one of the world’s “Big Four” accountancy practices, has recently stated that it intends to employ 1,300 – 1,500 personnel at its Cardiff NDC by 2023⁶⁴.

In the time that the CCEZ has been in existence, UK legal practice “nearshoring” has become a significant phenomenon. Unfortunately, as we illustrate in chapter 14 of this report, the vast majority of UK legal practice nearshoring investment that has occurred in recent years has taken place in locations other than Cardiff. Today, several UK cities are now home to one – or more – nearshore service centres (SCs), belonging to some of the world’s largest law firms. By contrast, Cardiff is currently home to just one major UK legal SC – Lewis Silkin⁶⁵. Lewis Silkin is a top 60 law practice, when ranked by UK revenues⁶⁶.

⁵⁹ Cardiff Central Enterprise Zone Strategic Plan 2015 – updated July 2017, p5.

⁶⁰ Wales Online. *In Cardiff’s newest office building - how Blake Morgan found the experience of being the first tenants in 1 Central Square*, 16 April 2016.

⁶¹ Hugh James. *Hugh James to relocate to Central Square*, 12 December 2016.

⁶² Cardiff Central Enterprise Zone Strategic Plan 2015 – updated July 2017, p5.

⁶³ Deloitte. *First Minister of Wales opens new Deloitte office in Park Street, Cardiff*, 2 December 2015.

⁶⁴ Wales Online. *Deloitte on track to create hundreds of new jobs in Cardiff*, 28 January 2019.

⁶⁵ The Law Society Gazette. *Cardiff: Our launch pad for expansion*, 25 September 2018.

⁶⁶ The Lawyer. *The Lawyer’s top 200 UK law firms revealed*, 15 October 2018.

Attracting future nearshoring legal practices to Cardiff: the challenges and opportunities

As previously stated, it was hoped that the CCEZ would create “one of the UK’s premier locations for the financial and professional services sector” – partly by attracting middle and back office functions from London. In light of this objective, we believe it would be useful for the Welsh Government to understand why so many UK legal practice nearshorers ultimately decided to locate their SC in locations other than Cardiff. We hope our insights, gained from speaking to those directly involved in previous law firm nearshore location decisions, will allow the Welsh Government to recalibrate any future attempts to attract this type of inward investment, should it decide to pursue such a strategy in the future. Indeed, given the Welsh Government’s success in attracting Deloitte to the CCEZ, we also suggest how this success might be carried over into the legal sector.

The first point worth making is that Cardiff did feature on several law firms’ evaluation lists, in terms of potential SC locations. This suggests that the Welsh Government would not need to spend large amounts of money, simply to get Cardiff “on the radar” of future legal sector nearshore decision-makers. Experience suggests that Cardiff was, and is likely to be in the future, on those radars.

Secondly, our research suggests that – albeit with varying levels of sophistication – law firms drew heavily on dispassionate selection criteria when evaluating their planned SC investments. Our interviews with previous SC decision-makers suggests that an area’s population size, its average salaries, property costs, local education standards, and considerations such as whether accents could be readily understandable to an international workforce, were all considerations that came into play during their location shortlisting. The quality of transport links to the firm’s other offices was also a repeatedly mentioned consideration. For some firms, particularly those with a strong UK heritage, this meant rapid rail links to London. For others, particularly among those with more cross-border heritage, the quality of a location’s local airport connections was also very important. Furthermore, because SCs typically employ a wide range of personnel, both legal and support staff, the breadth and depth of the talent pool was also important.

Positively, having drawn on these dispassionate shortlisting criteria, one interviewee recalls that, out of 200 locations they evaluated globally, “Cardiff came top and Swansea came 13th”. Cardiff scored very highly in relation to its working age population, the abilities of persons over a ‘level four’ level of educational attainment, average salaries, real estate costs, and employment deprivation, this individual recalls. Another interviewee recalls that “I’m happy to say that Cardiff was one of the top four locations we evaluated and could probably even be described as an early front runner.” Considering that both of these individuals worked, at the time, for two of the world’s largest legal practices, this is a considerable endorsement of Cardiff’s attractiveness as a potential law firm SC nearshore location.

Even more positively, having interviewed Wayne Harvey, the head of Deloitte’s NDC in Cardiff, during our research for this report, we can confirm that Deloitte is actively considering using its Cardiff NDC to provide support for its growing global network of legal practices. Mr Harvey confirmed that Deloitte’s Cardiff NDC already deals with matters that are tangentially related to the provision of legal services, such as those relating to anti-money laundering regulatory compliance and corporate finance. In the future, there is also the potential to use the NDC to assist with the delivery of legal services in relation to matters such as business immigration and corporate restructuring. The NDC is already being used to develop LegalTech / legal AI solutions, for both internal and external use. The exact future form and scope of Deloitte’s Cardiff NDC in relation to legal services support was not yet clear, Mr Harvey admitted – but some type of role is likely, he said.

Returning to the issue of what makes a location attractive to legal practice nearshore decision-makers, perceptions about local investment agencies were also mentioned by several individuals we interviewed. The perceived responsiveness and proactivity of these agencies was, in the words of one interviewee “not a decisive factor, but they certainly helped smooth the process”. Likewise, the availability of grants was not, in itself, a selling point, partly because they were common to many locations, and also because they would typically account for a small percentage of the SC investment ultimately made. Indeed, one interviewee recalled how they “didn’t even bother” applying for financial support, despite it being available. More generally, several of our interviewees praised the helpfulness of the Welsh Government’s legal and professional services contact points, who were personally well-known to them. The prospect of dealing with “a government, as opposed to a regional development board or council” was a strong positive consideration, one interviewee added, observing that “there would have been a degree of cachet in having a Welsh nearshore office opened by a First Minister rather than a local council leader.”

Given that the feedback from several key law firm decision-makers was broadly positive, why was Cardiff ultimately not selected as an SC nearshore location by those firms? In the case of one legal practice, the (then) travelling time from the City of London to Paddington, and onwards to Cardiff, was a notable negative. Similarly, in terms of air travel, Cardiff Airport scored badly in relation to its international business connections. As one key decision-maker explained, it was intended that the SC would be a destination that the firm intended to “show off”, both internally to its own staff and also externally to clients and other key stakeholders. Therefore, anything that hindered the ease with which international visitors could visit the SC was regarded as a drawback. This was not, however, a universal view. Another SC decision-maker observed that their SC guests tended to visit the centre after first having meetings in London. Therefore, so long as the journey between the firm’s London office, its SC, and Heathrow was not particularly difficult or time-consuming, the challenge of poor airline connections local to the SC could be circumvented – possibly by taking the train instead.

Finally, staying on the connectivity point, one interviewee also suggested that Cardiff “might be too close to London”. Slightly counterintuitively, this interviewee suggested it might be preferable to base a firm’s SC further away from the UK capital, in locations where the SC’s employees would have a strong affinity to their locality and intend to remain there. Having an SC within easy travelling distance of the UK capital risked employing people who would use their SC role as a stepping-stone to a London relocation. “We certainly felt that about Birmingham,” this interviewee said.

Another concern in relation to Cardiff was that, as a location, it lacked enthusiastic supporters. There was no overt hostility to the city as a potential SC venue. But, unfortunately, other UK locations had a far greater cultural pull among the firm’s key decision-makers – especially the partnership. “This consideration wasn’t formally built into our analysis, but it was one that was definitely articulated during the decision-making process,” one interviewee admits, recalling that a significant minority of their practice’s partnership hailed from a particular UK region. Another said: “the geographical thing was almost humorous, and it seems was largely driven by where the partners had their holiday homes.” Some partners, this individual suggested, would “strongly recommend X location, having grown up there – and presumably also being happy to retire there, having first headed up the SC office on full equity partner drawings.”

There is, of course, little that the Welsh Government can do to overcome strong personal / cultural preferences for law firm partners to establish nearshore SCs in other UK locations. While it would be tempting to suggest that the Welsh Government should actively seek out individuals of influence who grew up in Wales to steer this SC decision-making process in the country’s favour, we are also conscious that this approach would not – necessarily – help Cardiff to “get over the line” as a legal practice nearshoring location of choice. For example, we are aware of at least one key law firm nearshore decision-maker who grew up in Cardiff – but nevertheless helped establish a UK nearshore SC in another UK city.

Instead, given that Cardiff made it to the final four SC shortlist locations of two of the world's largest law firms, we suggest that the Welsh Government continues to promote Cardiff on the basis of the objectively-justifiable criteria that we know are relevant to law firms' SC decisions. In terms of promotional messaging, the soon-to-be improved rail connections between the City of London and Cardiff (including via Crossrail) represent a strong argument in the city's favour, which cities such as Belfast will never be able to boast, and the likes of Birmingham, Leeds and Newcastle will not deliver (via HS2) for several years. Helpfully, plans to develop the current Brains Brewery site⁶⁷ in Cardiff will shortly provide the Welsh Government with an additional opportunity to promote Cardiff as an SC location, thanks to an additional supply of high-quality offices immediately adjacent to Cardiff Central train station. This is a particularly important point, because several interviewees mentioned that a short walking distance between the SC and a major transport hub (i.e. a railway station) was a very relevant factor to their final decision: ideally, this walking time should be less than ten minutes.

Furthermore, should Cardiff Airport be able to offer more "business friendly" flight destinations, this may also further enhance the desirability of Cardiff as a UK SC venue, particularly among large US-based international law firms. In the absence of this occurring, the ease with which Cardiff can be accessed by rail, from both the City of London and Heathrow, should be a message that the Welsh Government conveys strongly to would-be SC investors.

Moreover, given that Deloitte is already exploring its legal sector nearshoring options in Cardiff, this may enable the city to promote itself as an SC location which specialises in servicing multidisciplinary partnership (MDP)-type practices. To explain: Deloitte, along with each of its fellow Big Four accountancy rivals, is currently embarking on significant – and rapid – expansion of their legal services capabilities. This expansion means that these firms' potential for requiring significant legal sector (or hybrid legal / accountancy) SC support is substantial and may even exceed the SC requirements of the world's largest "conventional" law firms – several of whom have established SCs in other UK cities.

To put the global lawyer headcounts of the Big Four accountancy practices in context: according to various publicly available estimates, PwC's legal arm already employs more than 3,500 lawyers in 100 countries and regions⁶⁸ (making this firm the equivalent of a top five global law firm by lawyer headcount⁶⁹); KPMG's legal services business now employs 2,300 legal professionals in 76 countries⁷⁰ (making the firm a top 15 global legal practice by lawyer headcount), Ernst & Young's EY Law employs at least 2,200 legal practitioners in 81 jurisdictions globally⁷¹ (top 16 equivalent) and Deloitte's legal arm employs 2,000 (top 20)⁷². Additionally, as part of their global expansion plans, each of the Big Four has recently pledged to expand its UK legal operations. And, as Deloitte Cardiff NDC has already illustrated, the Big Four are placing a heavy emphasis on legal practice innovation and LegalTech as part of their legal services expansion.

⁶⁷ Wales Online. *First new building on the site of the Brains Brewery set to go ahead*, 10 July 2018.

⁶⁸ www.pwc.com/gx/en/services/legal.html.

⁶⁹ Legal Week. *The 2018 Global 100: the world's top law firms ranked by headcount*, 24 September 2018.

⁷⁰ Law.com. *KPMG's Legal Arm Announces Global Revenue Growth of 30 Percent in 2018*, 6 February 2018.

⁷¹ EY. *EY expands global legal managed services offering with acquisition of Riverview Law*, 8 August 2018.

⁷² Financial Times. *Deloitte muscles in on legal services in the UK*, 10 January 2018.

As we can see, the Big Four accountancy practices are currently aggressively pushing into legal services – and on a very large scale. Therefore, helping at least one of these practices to establish a hybrid law-accountancy SC in Cardiff could help the Welsh Government deliver its Economic Action Plan (EAP) in relation to professional services, particularly in relation to high quality employment, skills development, R&D, automation and digitisation⁷³. Moreover, should other large accountancy firms decide to expand into legal services – not all currently do – Cardiff could serve as an obvious potential venue for any SC they establish. Essentially, we believe that Cardiff may be able to build on foundations, that are already being put in place, and carve out a reputation for a specific type of hybrid law / accountancy SC. We further explore the potential for SCs to help the Welsh Government to deliver on its EAP – albeit specifically in relation to the legal sector – in chapter 14 of this report.

Direct financial support to the Welsh legal sector

Possibly the most high-profile way in which the Welsh Government has assisted the Welsh legal sector directly in recent years is through direct financial support. To the best of our knowledge, the list below summarises all publicly disclosed direct financial support given by the Welsh Government to legal practices operating in Wales. The figures below represent a total Welsh Government investment of £1,844,190, spread across nine law firms. The stated ambition of these employment aspirations is that a total of 299 jobs should be created under this scheme, and 58 jobs safeguarded. To date, it is our understanding that five of the nine firms indicated below have been paid in full for the jobs they created, three have received a pro-rata payment, and one has received no payment. Some of these funding support schemes still have months, or years, to run.

On a cost-per-role-created basis, Welsh Government support equates to roughly £6,168 per job created, or around £5,166 per role if “jobs safeguarded” is also included in this calculation. To put these figures in a wider context:

Table 11: direct financial support given to the Welsh legal sector

Firm	Date announced	Value (£)	Planned outcome	Cost per job created or safeguarded
Lewis Silkin	12 November 2012	£160,000	10 staff by end of 2013	£16,000
NewLaw	10 October 2013	£156,690	86 new jobs	£1,822
Watkins & Gunn	26 November 2013	£50,000	Five jobs created, five safeguarded	£5,000
Gordons Dadds (Now Ince Gordon Dadds)	15 April 2014	£200,000	14 jobs	£14,286
Carbon Law	02 June 2015	£325,000	25 jobs	£13,000
Howells Legal Ltd	22 July 2015	£100,000	13 new jobs / 3 safeguarded New conveyancing hub	£6,250
Geldards	10 December 2015	£127,000	25 new jobs, 30 safeguarded	£2,309
CJCH	21 March 2017	£432,000	71 new jobs by 2020	£6,084
JCP Solicitors	9 August 2017	£293,500	50 new jobs / 20 safeguarded	£4,193

⁷³ Welsh Government. *Prosperity for All: economic action plan*, 21 May 2018, p11.

Firstly, we note that the costs per role, outlined above, compare favourably with the “direct business support” expenditure – which we assume means grant support – incurred by the Cardiff Central Enterprise Zone (CCEZ) during its existence. In return for spending £16,007,756.34 on this specific type of support, the CCEZ created 891.5 jobs (compared with 299 for legal specifically), safeguarded 86 jobs (legal: 55 jobs), and assisted 1,473.4 jobs (no comparable legal-specific data located). This equates to approximately £17,956 per role created, £16,376 per role if jobs safeguarded is included, and £6,531 per role if jobs assisted is also added.

Secondly, we observe that the cost to the Welsh Government of creating new legal sector opportunities also compares favourably with similar locations elsewhere in the UK. On p94 of this report, we provide equivalent (known) figures for jobs created in Northern Ireland, as stated at the initial investment announcement date. The comparable figures for Northern Ireland indicate a total value of financial support of £9,323,850, which aimed to create a total number of 1,277 roles – at an average spend per job created of £7,301. This is a slightly higher cost per role than Wales’ average spend, but not significantly so.

Even if one compares outliers, in terms of “cost of role supported”, Cardiff’s data compares favourably, when contrasted with several Northern Ireland examples. In Wales, the highest two “costs of roles supported” were Lewis Silkin and then (then) Gordon Dadds, at a cost of £16,000 and £14,286 respectively. This is broadly comparable with Axiom’s first round of Invest NI support (£15,686 per role) and support given to Respstor, at £13,475 per role. Even in relation to each of these outlier scenarios, we can probably assume that the amount of investment per role was less than one year’s salary for each employee position created or safeguarded. For that reason, we do not regard the levels of financial support given to the legal sector by the Welsh Government to be excessive. We assume that the payback period, in terms of income and other taxes collected from supported employees and businesses, was relatively swift.

That said, we also make the point that the overwhelming majority of Belfast positions supported by the NI Government were entirely new roles, rather than (unlike in Wales) roles safeguarded or supported. This is an important distinction: while the majority of firms assisted by the Welsh Government were already present in Wales at the time that the Welsh Government investment was made, the majority of legal sector recipients of financial assistance in Northern Ireland were establishing in the location for the first time. A distinction between “indigenous” and “new market entrant” (NME) support matters, we believe, because – as a general rule – it appears that NME firms tend to generate far more jobs overall than indigenous firms, even though the level of financial support given to both (on a per-head basis) is broadly comparable.

Moreover, while we have also discovered that several supported law firms, both Wales-based and otherwise – have exceeded their initial employment headcount targets, the local market impact of this target-beating tends to be noticeably higher in relation to NMEs. This is probably inevitable – indigenous Welsh law firms tend to be relatively small, compared with NMEs. Therefore, even when they exceed their headcount growth targets, indigenous firms are typically likely to generate a handful of extra jobs. By contrast, an NME law firm that exceeds its headcount target might add hundreds of additional roles. For example, while Allen & Overy’s Belfast office was initially intended to support around 300 roles⁷⁴, it is understood that the office’s current headcount is now closer to 600. Even more impressive has been Herbert Smith Freehills: this firm’s Belfast SC began its existence with a headcount of 26⁷⁵ in 2011. Yet, by the mid-2018, the headcount for this office had reached 350⁷⁶. If one primarily cares about outputs – specifically new roles created, rather than the nationality of the practice that is creating those roles – then the inescapable conclusion is that large NME law firms tend to be better at growing a market for legal sector jobs when compared with their smaller indigenous (i.e. Welsh) legal practice competitors.

⁷⁴ Invest NI. *Foster Announces Major Investment by International Legal Firm*, 3 February 2011.

⁷⁵ Invest NI. *Leading international law firm establishes base in Belfast*, 24 November 2010.

⁷⁶ Herbert Smith Freehills. *Herbert Smith Freehills’ Belfast office celebrates seven years of innovation*, 4 May 2018.

Feedback on the grant award process

As part of our research into this topic, we interviewed several law firms in Cardiff regarding their experiences of considering, applying for, and receiving, Welsh Government financial support. Below, we offer examples of the feedback we received.

Several of our law firm leader interviewees said they were aware of the possibility of financial support by the Welsh Government – not least because the subject provoked controversy when the first grants were announced. But, having tentatively explored the possibility of applying, some recalled how they had given up on the process without making an application:

“We’ve never been able to take advantage of the support that’s on offer, because it takes so damned long, because you can’t just wait for those sorts of things to happen, or because the processes are too cumbersome. So we’re aware that there are grants available – I just don’t think they’re particularly easy to access.”

“We had a go at trying to get support to grow our business. And we just gave up. We found the process of applying for, and getting approval for, support just wasn’t worth it.”

One issue that both deterred would-be applicants, and also caused problems for successful applications, was that certain grants provided retrospective funding: money would only be released once the jobs had been created. Those who had explored the grant process understood why this approach might be followed – but regarded it as challenging nevertheless, because it potentially created a cash-flow gap. Firms would have to pay the additional wages of the roles they created / supported up-front – and then hope that they could recover the Welsh Government grant money to pay for those roles at a later date.

Among those who had sought, and obtained, Welsh Government support, perceptions of the process varied hugely. Some grant holders were generally upbeat about their interactions with the Welsh Government during the grant award process. Others were noticeably less so:

“Our experiences engaging with most of them [Welsh Government officials] was very positive. Not just about the grant process, but also in relation to wider advice and support.”

“It took a few months to progress through the machinery. I appreciate that you can’t just dish out money for nothing – but there was a feeling that it was all quite ponderous.”

“Would I do it again? Yes, because I think the Welsh Government should do something to help stimulate the Welsh economy. But I wouldn’t do it again if it was the same application process, and the same type of engagement.”

One interviewee suggested that they felt they were being held to “slightly” different standards at the end of the grant award process, compared with those standards they had initially signed up for. This shift, the interviewee recalled, “made life a little difficult for us, because we had set out to meet the needs we signed up to at the start”. “It was almost like the acquisition or sales team had one perspective, and the post-sales and support team had a different perspective,” they explained.

Other Welsh Government support mechanisms noted

During the course of our research, we noted various additional methods by which the Welsh Government has recently attempted to support the legal sector in Wales. These included plans to create a “Cardiff Inns” shared space for barristers, and a Centre of Innovation in the Business of Law (CIBoL). We observed that neither of these initiatives have ultimately come to pass: the Cardiff Inns initiative failed because the owner of the preferred venue was not open to this idea, and the CIBoL proposal has since been overtaken by events – with Swansea University independently taking a lead on this issue. We briefly commented on CIBoL in chapter four of this report, which focuses on the role played by education and training centres in supporting the Welsh legal profession – including the role played by legal education innovation.

Conclusions and recommendations

In light of our findings above, and observing that the Welsh Government’s recent Economic Action Plan (EAP) envisages ongoing direct financial support for enterprises with “growth potential”⁷⁷, we therefore make the following observation. In the Welsh legal sector, the segment of the market that appears to have the highest (overall) growth potential are NMEs – particularly those NMEs that are establishing SCs. As we have outlined in this chapter in relation to Deloitte – and also in chapter 14 in relation to the legal sector – NMEs that create new SCs have a proven track record of generating hundreds of entirely new jobs in a single location. This is something that we believe the Welsh Government should be conscious of, as it seeks to deliver on its EAP objectives.

Moreover, we see no contradiction between future Welsh Government support for NMEs / SCs and its noted enthusiasm for supporting indigenous Welsh employers. This is because, as we shall explain further in chapter 14 of our report, the type of work undertaken at legal practice SCs is typically different to that undertaken by traditional law firms. As a result, we believe that an influx of NMEs could make the Welsh legal sector more resilient, because it would help facilitate the diversification of both role types and employers.

In support of a possible diversification / resilience agenda, we suggest that the Welsh Government should actively consider encouraging the Big Four accountancy practices to establish hybrid legal / accountancy sector SCs in Cardiff. In doing so, we suggest that the Welsh Government actively engages with Deloitte’s evolving legal sector expansion plans, delivered via its Cardiff NDC, and promotes any positive outcomes of Deloitte’s Cardiff legal sector activities to the wider world. As we further explain in chapter 14 of this report, the experience of other legal nearshoring centres in the UK suggests that a location can sustain the establishment of several – typically at least three – SCs from the same sector, before the local market starts to be perceived as overheating. For that reason, the presence of Deloitte in the Cardiff legal SC market should be seen as a positive development, which might spark similar investments from rival MDP professional services firms.

⁷⁷ Welsh Government. *Prosperity for All: economic action plan*, 21 May 2018, p12 – 13.

Chapter seven: Welsh Government procurement of legal services

Our analysis of Welsh Government procurement of legal services takes place against the backdrop of previously announced plans to discontinue the existing National Procurement Service (NPS) in its current form, and the establishment of a new national contract body. We note that one of the stated aims of this change is to “maximise procurement spend in Wales while also using the £6bn annual procurement spend to support sustainable jobs and growth; fair work and employment practices; infrastructure and construction investment; use of public assets and improve the resilience of local businesses and their communities”⁷⁸. We are also aware that the current pan-public services framework for external legal services expires on 31 August 2019⁷⁹.

Our single most significant observation, in light of these various Welsh Government activities, is that Welsh public sector spending on external legal services in Wales is so small that it is difficult to see how it might meaningfully influence the overall health of the Welsh legal market. To support that assertion, we offer several key statistics, used in combination with each other.

The first statistic is the overall size of the legal market in Wales, in terms of the gross annual turnover of law firms based in the country. According to SRA data, Welsh headquartered law firms collectively turned over £408,112,556 in the most recent financial year available. This figure, it should be appreciated, does not represent the entirety of the Welsh legal market (for example, it excludes barristers’ chambers and law firms headquartered outside of Wales). Nevertheless, it is a useful approximation of the minimum estimated annual revenues within the sector, before these additional elements are also included.

The second statistic is the total external legal spend of the Welsh Government in the most recent financial year: £3,630,169.94 in 2017 / 2018, as set out in a statement made by Jeremy Miles AM to Bethan Sayed AM on 18 October 2018. This total, it should be stressed, does not equate to the entire Welsh public sector. Nevertheless, it does illustrate the Welsh Government’s tangible purchasing spend on external legal services. The 2017 / 2018 data mentioned by Mr Miles in his letter is also broadly in line with the Welsh Government’s external legal spending between the 2011 / 2012 and 2015 / 2016 financial years. This data was revealed in a response from the Welsh Government, dated 3 October 2016, to a freedom of information request submitted by John Hyde (ATISN 10772).

Taken together, these two – albeit imperfectly aligned – statistics suggest that Welsh Government external legal spend is likely to account for less than 1% of gross Wales-based law firm turnover in a typical year. When one breaks that total legal spend down into individual Welsh Government functions, the real purchasing power of those functions diminishes still further.

⁷⁸ Welsh Government. *Written Statement - Review of the National Procurement Service and Value Wales Commencement Order*, 5 September 2018.

⁷⁹ NPS. *Professional services news round-up*, 30 November 2018.

Welsh Government expenditure on law firms

We appreciate that the Welsh Government might be perceived as having a greater influence on the health of those legal practices it instructs. To that end, we requested granular data regarding levels of Welsh Government spending on a firm-by-firm basis. Our analysis below is based on the information that could be gathered during the tight timeframe required for our evaluation.

The data we selected, the most recent available in both cases, was Welsh Government external law firm expenditure between January 2018 and September 2018, and law firms' total revenues for the 2017 / 2018 financial year. While we appreciate that these two data sources do not entirely "map" over each other, they nevertheless give an approximation of the Welsh Government's purchasing power in a typical year.

Helpfully, we were able to assess spending ratios at six law firms instructed by the Welsh Government, representing three distinctive types of legal practice:

- Law firms based in Wales
- Law firms based elsewhere, which nevertheless have a presence in Wales
- Law firms which serve Wales remotely, with no direct presence in the country.

Our findings can be found in table 12 below.

Table 12: percentage of law firm turnover represented by WG instructions

Type of law firm	Percentage of firm turnover represented by WG instructions
Law firm based in Wales	0.8885
Law firm based in Wales	0.3657
Law firm based elsewhere with a Wales presence	0.0108
Law firm based elsewhere with a Wales presence	0.0009
Law firm which serves Wales remotely	0.0246
Law firm which serves Wales remotely	0.0506

Our findings are striking: even if one adds an extra 25% to the percentages outlined above, to take account of the fact that we mapped nine months of billing data onto full-year law firm revenues, we struggle to envisage a scenario where any of the six law firms listed might have received more than 1.2% of its annual turnover from the Welsh Government – and most will earn far less. Furthermore, from the spend data we have been provided, we understand that the Welsh Government spend on external law firms accounts for around one-third of the wider Welsh public sector external legal spend total. If this is the case, we would also struggle to envisage a scenario where total Welsh public sector legal spend accounted for more than 4.0% of any instructed law firms' total revenues.

Some of these same firms, it should also be stated, derive a significant percentage – sometimes in excess of 20% – of their overall turnover from public sector work. However, this work overwhelmingly comes from English public sector clients – not Welsh ones. Explicitly addressing our terms of reference, it is therefore worth noting that some leading law firms operating in Wales do not appear to suffer from a significant inability to win public sector work outside Wales. On the contrary: it is a lack of external legal spend by Welsh public sector bodies that appears to be hindering the ability of these law firms to win more of such work within Wales.

Moreover, it is within the remit of the Welsh Government to enable that to happen: although it typically spends in the region of £3.5m on external advice, we understand that – for at least the past three years – the Welsh Government also spent in excess of £8m per year on its own internal legal support. Perhaps the most tangible way that the Welsh Government might help boost the Welsh private practice community is to spend more money on legal services externally and less money internally. Of course, we appreciate that such an approach may not fit with the Welsh Government’s value for money objectives. Ultimately, the Welsh Government will need to settle on a policy that reconciles any desire to support the Welsh legal profession via the procurement process and the need to ensure that its total spend on legal services is most cost-effectively sourced. Either alternative can help to (modestly) stimulate the legal services sector in Wales – assuming that legal practices with a Welsh presence are instructed. The key question for the Welsh Government in relation to this issue is therefore: do you prefer to (modestly) stimulate the Welsh private practice legal community, or the Welsh public sector legal community?

In light of the data we have evaluated, we offer two initial observations, which we invite the Welsh Government to reflect on:

Firstly, we would be extremely wary, for example, of recommending that law firms consider sharing their Welsh Government instructions with smaller practices via sub-contracting – perhaps with a view to encouraging a greater diversity of Welsh Government legal services suppliers. The Welsh Government is already a client of limited financial importance to its existing law firm supplier base. Therefore, we suggest that a strategy of instructions sub-contracting would simply diminish the Welsh Government’s relative importance to its supplier law firms still further.

Secondly, we would also be wary of proposing that the Welsh Government should actively seek a more “strategic partnership arrangement”, where such arrangements would mainly have the effect of loading costs and complexity onto law firm panel members, without any significant financial uplift. As we shall shortly illustrate, the most positive interpretation of law firms’ attitudes towards the existing procurement framework is that they tolerate it, even if they complain about it. Given that the Welsh Government’s stated objective is to maximise its Welsh legal sector procurement, we believe the Welsh Government should encourage these firms to participate in the process rather than impose onerous obligations on them. Moreover, we also note that the pool of alternative Wales-based law firm suppliers, who specialise in public sector work, is very small⁸⁰.

⁸⁰ Legal 500. *Wales. Public Sector. Law firms and leading lawyers ranked. Chambers UK. Local Government. UK-wide.*

Maximising Welsh legal sector procurement of law firms

As part of our research process, the Welsh Government has provided us with data which sets out the percentage of (mainly) legal services framework instructions that went to law firms with a Wales base, once advice from one specific non-Welsh firm had been excluded. These percentages were as follows:

- 2012 / 2013 – 78%
- 2013 / 2014 – 86%
- 2014 / 2015 – 95%
- 2015 / 2016 – 96%

We have also been provided with spend data between September 2015 and July 2018 under the NPS framework. This Welsh Government data states that law firms with a base in Wales had secured:

- 91% of the overall public spend through the NPS
- 88% of Welsh Government spend through the NPS

We have been informed that 30+ jobs have reportedly been created by law firms on the NPS Solicitors Framework as a result of their place on that framework.

Given that spend on Wales-based law firms is already very high in percentage terms, we struggle to suggest how the Welsh Government might increase that percentage still higher, without risking the accusation that it was actively seeking to distort the procurement process for legal services.

As part of our research into this issue, we were provided with granular data on external Welsh Government legal spend. This information allowed us to identify specific incidences of non-local firms that were regularly instructed. It is notable that one of the significant incidences of this type of expenditure has – over a number of years – repeatedly related to one specific firm in relation to one specific legal specialism. We do not know if this specific firm was instructed because local Welsh practices did not bid for this type of work, or because they were conflicted out for this type of advice. However, if one takes the legal directories as a proxy guide to supplier quality, it is perfectly understandable why the Welsh Government felt able to instruct this particular practice for this particular type of legal advice, notwithstanding its non-Welsh presence: it is ranked by both *Chambers UK* and the *Legal 500* as a top-tier practice for that legal specialism.

Much the same can be said for two other law firms based outside Wales, which have received Welsh Government / public authority instructions worth tens of thousands of pounds. Objectively, both appear to be suitable firms for instruction. Not only are they ranked highly by the legal directories for their public sector expertise, both – conveniently – have one (or more) offices within 40 miles of the Welsh border. Their offices are therefore readily accessible by Welsh Government officials. Indeed, it is even possible that these firms may employ personnel who live in Wales. Another law firm, listed as being “Outside Wales” in Welsh Government data, has recently established a direct presence in the country – thereby rendering its “Outside Wales” status redundant.

As previously stated, it is also relevant that some law firms who undertake Welsh public sector work also have a significant English public sector client base. Perhaps not surprisingly, in our discussions with them, these firms were therefore keen to ensure that the market for public sector legal work remains open to all legal practices with the necessary expertise – no matter where in the UK those legal practices happen to be based.

Welsh Government expenditure on barristers, part one: panel membership

Turning now to the Bar: we understand that the Welsh Government maintains a relatively open process for becoming a member of its approved counsel panel: there is currently no cap on the panel's overall size, and applicants only need to complete a short application form. The Welsh Government informs us that, since the current panel was established in October 2012, a total of 90 applications to it have been received to join this panel. Of these 90 applications, 35 (39%) were from candidates based in Wales, with 55 (61%) coming from candidates based elsewhere. In total, 56 (62%) of all applicants were successfully appointed to the panel, including 23 (41% of the successful total) who were based in Wales and 33 (59% of the successful total) who were based elsewhere. Among the 34 unsuccessful candidates, 12 (35%) were based in Wales and 22 (64%) were not.

Taken in the round, these figures suggest that applicants from Wales comprised a relevantly healthy percentage of the total – especially considering that the entire Welsh Bar consists of roughly 300 members. Wales-based applicants also appear to have a respectable likelihood of being appointed to the Welsh Government counsel panel. We further understand that the current Welsh Government total of approved counsel is 51, of which 20 are based in Wales. This means that around 6% of all barristers in Wales are currently on the Welsh Government's counsel panel.

Breaking down the approved Welsh Government panel of approved counsel appointments thematically, the following observations are noteworthy⁸¹:

- Two of the 12 QC appointments are barristers based in Wales
- Three out of the 15 public law junior panel A members are barristers based in Wales
- Four out of the nine public law junior panel B members are barristers based in Wales
- Six out of the seven criminal law junior counsel A members are barristers based in Wales
- Four out of the 10 employment law junior counsel A members are barristers based in Wales
- Two out of the three employment law junior counsel B members are barristers based in Wales
- Four out of the five personal injury junior counsel A members are barristers based in Wales
- Two out of the two personal injury junior counsel B members are barristers based in Wales
- One out of the two family and children panel junior counsel A members are barristers based in Wales
- The sole family and children panel junior counsel B member is a barrister based in Wales

On a chambers-specific basis, data recently provided to us by the Welsh Government indicates that the current panel membership is split between five of sets of chambers in Wales. This panel split is as follows:

- Apex Chambers – four counsel (four junior counsel from panel A)
- 9 Park Place Chambers – three counsel (one QC, two junior counsel from panel B)
- 30 Park Place – three counsel (one QC, one junior counsel from panel A and one junior counsel from panel B)
- Civitas Law – nine counsel (eight junior counsel from panel A, one junior counsel from panel B)
- Angel chambers – one counsel (one junior counsel from panel A)

⁸¹ Welsh Government. *Welsh Government Panel of Approved Counsel – short background*, Annex 1, p2 – 14.

Given that the Welsh barristers' profession accounts for around 1.9% of the 16,000-strong English and Welsh total, it is difficult to see how any of the panels, shown above, lack Welsh barrister participation – especially in relative terms. If anything, it appears that Wales-based barristers are overrepresented on many of the panels described above. In terms of straightforward panel membership, therefore, we struggle to see how the Welsh Government can further support the Welsh Bar, without distorting the competitive process.

In terms of instructions by the Welsh Government, the overall share of instructions given to Wales-based counsel increased from 40% in 2013 to its current level of 45%. Unfortunately, according to data provided by the Welsh Government's Legal Services Department, as of 11 February 2019, 18 panel members (comprising 35% of the total) had not yet received any instructions. Overall, it has been calculated that four out of 11 QC panel members, six out of 31 panel A members, and eight out of nine panel B members have not been instructed⁸². Given the high ratio of Welsh Counsel on the B panel in particular, it is highly likely that several Wales-based panel barristers have not yet been instructed by the Welsh Government.

That said, the percentage of instructions received by Welsh counsel is arguably not a useful basis for evaluating the Welsh Government's support of the Welsh Bar. As one of our barrister interviewees put it: "A case might be a prosecution in a magistrates' court – or it could be a multifaceted, £100,000+ judicial review about planning law regarding the M4 motorway. I'm more interested in pounds, shilling and pence, not cases handled." In our view, this is a valid observation.

Welsh Government expenditure on barristers, part two: the financial value of instructions received

Our analysis of Welsh Government spend data on barristers' services comes with four important health warnings, which we feel it useful to spell out explicitly. These health warnings are the inevitable consequence of undertaking an analysis of data that was not originally collected for the purposes of such an evaluation:

- The data that we have been provided with by the Welsh Government lists invoice data that is attributable to individual barristers in the same report as invoice data attributed to barristers' chambers. Barristers are typically self-employed professionals, who also tend to work within barristers' chambers. It is therefore entirely understandable that their invoices could have been processed using either approach
- We have been informed that it is not unusual for barristers to submit bills that combine their legal advice with expenses incurred. We hope that the data we have been provided with by the Welsh Government includes the former, but not the latter – assuming it was possible to differentiate between the two
- We have been provided with aggregate data covering a period of 1 February 2012 to 3 March 2019. To a certain extent, therefore, it is likely that the findings we present indicate legacy Welsh Government purchasing preferences, rather than those that have been in place more recently. We discuss this issue in more detail shortly
- During the time period of our investigation, we note that some barristers have retired, while others have become judges. In conducting our evaluation, we have therefore been forced to rely on historical data regarding the location in which these barristers formerly practised. To complicate matters still further, some barristers are primarily located in one location but are also "door tenants" at another. Our analysis is undertaken on the basis of their current, or most recently known, principal location of work

⁸² Welsh Government Legal Services Department. *Composition and distribution of instructions since 1 October 2012 (updated to 11 February 2019)*.

With these important caveats in place, our analysis suggests that the perception that a very large percentage of barristers' work has – at least historically – being procured outside Wales has a strong evidential basis. Below, we provide two key data tables, which summarise the location where invoices were raised for barristers' services, either individually or via their chambers. In both cases, more than 70% of the financial value of the invoices charged to the Welsh Government was billed to a London address. By contrast, roughly 20% of work invoiced was billed via Cardiff specifically. Far smaller percentages were additionally split between Birmingham and Bristol – at chambers level – and between Manchester, Shrewsbury and Swansea at barrister practitioner level.

Table 13: invoice locations for Welsh Government use of barristers – chambers level data

Chambers location	Chambers location total	Chambers location percentage
London	£718,514.00	78.39
Cardiff	£181,298.00	19.78
Birmingham	£16,632.00	1.81
Bristol	£176.00	0.02
Grand total	£916,620.00	100.00

Source: Welsh Government

Table 14: invoice locations for Welsh Government use of barristers – barrister level data

Barristers' location	Barristers' location total	Barristers location percentage
London	£458,593.00	71.03
Cardiff	£141,532.00	21.92
Manchester	£36,439.00	5.64
Shrewsbury	£4,290.00	0.66
Swansea	£4,765.00	0.74
Grand total	£645,619.00	100.00

Source: Welsh Government

On a straightforward reading of the data presented above, it would be easy to conclude that Wales-based chambers and barristers were unfairly disadvantaged by Welsh Government procurement, especially in relation to the value of the work sent to London. However, this perception arguably requires an important calibration. It should be remembered that Wales-based counsel only make up around 1.8% of the barrister total across England and Wales, accounting for just 300 out of 16,598⁸³. Similarly, the number of barristers' chambers of any size in Wales is very small – roughly 10, out of an England and Wales-wide total of 413⁸⁴. In this context, the fact that the Welsh Government sent 19.78% of the value of its work to Wales-based chambers, and 22.66% of the value of its work to Cardiff and Swansea-based barristers appears – if anything – disproportionately generous to the Wales-based barristers' profession and chambers. In that context, it is arguable that the Welsh Government is actively promoting the barristers' profession in Wales – significantly so, in fact. In making this assertion, it is appreciated that comparing revenues spent with the total number of barristers / chambers in Wales is an imperfect method of comparison.

Combining the two headline totals together, outlined above, we calculate that the total Welsh Government expenditure on barristers between 1 February 2012 and 3 March 2019 was £1,562,239. Of this aggregate value, £327,595 was spent on barristers based in Wales. Taken in the round, even the overall figure is not particularly large, and represents an average of just £223,177 per year over a seven-year period. Indeed, even if the entirety of Welsh Government expenditure on barristers was transferred to the Welsh Bar, it would equate to an average of just over £743 per barrister in Wales, per year. This leads us to conclude that, as with the solicitors' profession, the Welsh Government's ability to influence the overall health of the barristers' profession in Wales is likely to be exceptionally modest.

When evaluating Welsh Government spend on solicitors' firms outside Wales, our report previously noted that this non-Welsh expenditure appeared justified, because these firms were highly regarded in relation to the work they were instructed to do. In making this assertion, we used the *Chambers & Partners* and *Legal 500* annual legal directories as proxy indicators for quality. Unfortunately, the barristers' spend data we have been provided with by the Welsh Government does not list spend per legal specialism. We cannot, therefore, be entirely certain that each barrister instructed by the Welsh Government is regarded as a leader in their field – as deemed by *Chambers & Partners* and the *Legal 500* – in relation to the specific matter for which they were engaged.

However, what we can say is that every single one of the 16 barristers' chambers identified as being instructed by the Welsh Government between 1 February 2012 and 3 March 2019 is ranked by one, or both, legal directories. Similarly, the vast majority of the 28 individual barristers listed as being instructed between these dates is also ranked by one, or both, directories. Even when they are not ranked in the latest legal directory, every single barrister instructed was previously ranked – the majority of those not currently ranked have retired. Taken in the round, therefore, there appears to be a reasonable basis for the Welsh Government to instruct barristers outside Wales, on the basis that they are respected leaders in their fields for certain types of legal work.

In terms of the Welsh Government's explanation for this London-focused legal spend, the key reason offered to us by the Government's representatives is fairly straightforward: the Welsh Government already employs several barristers in-house. Therefore, when work is sent out to external counsel, it typically requires experts who have "very significant experience". To quote representatives from the Welsh Government directly: "The fact of the matter remains that we simply don't have that level of experience at the Welsh Bar." This focus on high value external instructions may help explain why – as mentioned earlier in this chapter – eight out of nine members of the Welsh Government's more junior "B" panel had not yet received any instructions.

⁸³ Bar Standards Board. *Practising barrister statistics*.

⁸⁴ Bar Standards Board. *Chambers statistics*.

We are certainly amenable to the validity of this explanation. However, while we accept that it is quite possible for certain locations to become centres of excellence, we are nevertheless surprised about the extent to which Welsh Government barristers' instructions have been concentrated in a very small number of barristers' chambers in London. To explain: in our analysis of the Welsh Government invoice data, we note that a single set of chambers – 11 King's Bench Walk (KBW) – has received income from the Welsh Government worth £451,938 during the time period of our evaluation. Notably, this equates to around 29% of the total Welsh Government expenditure of £1,562,239 on outside counsel during the period for which we received information.

We arrived at these figures by combining the invoice data expressly associated with 11 KBW (£191,240) with the current stated locations of individual barristers identified (£260,698), which we obtained by matching them against the Bar Standard Board's central register. When ranked by overall Welsh Government spend on outside counsel, 11 KBW was ranked second – out of 14 – on a chambers-level basis. Among individual barristers, counsel based at 11 KBW were ranked as receiving the first, fifth, sixth, ninth and 12th (out of 28) amounts of money billed.

Using the same methodology, we further calculated that Brick Court Chambers received £332,625 from the Welsh Government between 1 February 2012 and 3 March 2019 (21.29% of the total), Apex Chambers £98,928 (6.33%), Monckton Chambers £53,925 (3.45%), 30 Park Place £19,734 (1.26%), and the remaining chambers received the residual sum of £605,086. Two of these latter chambers – Brick Court and Monckton – are based in London, while two, Apex and 30 Park Place, are based in Cardiff.

Positively, our analysis of the data provided offers a reasonably mundane explanation for much of this Welsh Government expenditure. For example, our analysis of income received by specific 11 KBW barristers included multiple multi-year instructions for long-running matters, with each invoice typically for a few hundred – or a few thousand pounds – each. At least one 11 KBW barrister appeared to receive an income of less than £6,000 from the Welsh Government. That said, we have also been informed that six individual counsel at 11 KBW were also paid "higher value invoices" relating to 43 separate matters, which included judicial review challenges, advice in respect to Welsh Bills and references to the UK Supreme Court. At a more granular level, we further understand that one 11 KBW barrister was paid close to £40,000 for six matters, while another was paid in excess of £70,000 for 12 matters.

Viewed in the round, the concentration of instructions at 11 KBW indicates to us that the concept of Welsh law expertise may have become self-reinforcing. This, we suggest, may be limiting the possibility of other approved panel members from other chambers receiving instructions. To illustrate this point, we note that the two "least instructed" barristers' chambers received £100 and £76 each from the Welsh Government during the period of our evaluation, while 18 barristers on the Welsh Government panel appeared to receive no instructions and no income at all.

Positively, the explanation offered by the Welsh Government regarding the high level of expenditure on 11 KBW suggests this may be a legacy issue, and that the Welsh Government is now committed to a more diverse barrister supplier base. Our recent discussions with a Welsh Government official has brought to our attention various initiatives to facilitate this diversification process, including:

- The splitting of the Welsh Government procurement process for barristers into a senior "A" list and a junior "B" list. We understand that this panel splitting was specifically intended to encourage junior barristers based in Wales, to bid for work that might previously have been sent to more senior barristers based in London – but who previously charged the same rates as their more junior Welsh counterparts

- Organising education events, in conjunction with the local Welsh Bar, which aim to educate Welsh barristers on how to make high-quality Welsh Government panel applications
- Organising a “baby barrister” scheme. This scheme allows non-panel barristers to register their interest in providing the Welsh Government with ad hoc capacity support
- Inviting panel members, especially the more junior B panel members, to provide training to the Welsh Government – thereby raising their profiles with potential clients
- Inviting barristers to contribute articles to the Law.gov.wales website

Unfortunately, not all of these proactive Welsh Government initiatives appear to have gained traction within the Welsh barristers’ market. For example, Welsh Government officials have informed us that some of the educational events they have organised in Cardiff have been poorly attended. Similarly, take-up of the baby barrister scheme and training / writing opportunities have, to date, been limited.

We further observe that a lack of engagement by some segments of the Welsh Bar stands in stark contrast with the ongoing attempts by London-based barristers’ chambers, such as 11 KBW, to win Welsh public sector work. For example, this set of chambers organises a well-attended annual legal conference in Cardiff, which is specifically aimed at the public sector. This dichotomy of active engagement between the likes of 11 KBW and some sections of the Welsh Bar has caused us to reluctantly conclude that the Welsh barristers’ profession may, itself, bear some responsibility for the lack of Welsh Government instructions.

Conclusions and recommendations

Our findings start from the perspective that the Welsh Government’s ability to influence the overall strength of the barristers’ profession in Wales is marginal, in light of its weak overall purchasing power. More positively, in light of representations recently made to us, we also accept that the Welsh Government has made a sustained effort to diversify its barrister supplier base in recent years – including the encouragement of talent that is local to Wales.

In light of our observations made above, and also the billing data we have analysed, our principle recommendation is that the Welsh Government’s approved barristers’ panels should shrink substantially. Given that four out of 11 QCs, six out of 31 panel A members, and eight of nine panel B members have not yet been instructed, this suggests to us that the overall panel size should be reduced from more than 50 to closer to 30 – with specific panels reduced to a size that is commensurate with the size of likely instructions.

In the first instance, we propose that this panel-shrinking exercise should be voluntary. We suggest that all current panel members – and indeed future ones – should be provided with granular information regarding recent Welsh Government barristers’ spend in relation to their specific panel specialisms. This information, we suggest, may well prompt existing panel members to resign, on the basis that they have no realistic opportunity to secure meaningful Welsh Government instructions. Only if a voluntary programme of panel retrenchment does not substantially reduce its overall size would we suggest that individual barristers should be removed from it on a non-voluntary basis – or the entire panel appointment process be re-run to a smaller scale.

We fully accept that the panel rationalisation programme we propose appears brutal. However, we suggest that such a process would ultimately result in a panel whose barrister membership is more realistic about their likelihood of obtaining Welsh Government instructions.

Chapter eight: The procurement of solicitors' and barristers' services by the wider Welsh public sector

In this chapter, we explore the procurement of legal services across the entire Welsh public sector via the National Procurement Services (NPS) framework for Wales, in relation to both solicitors and barristers. This analysis builds on our investigation into the procurement of solicitors' and barristers' services by the Welsh Government.

The procurement of solicitors' services via the NPS

We understand that we have been provided with NPS framework spend data for solicitors' firms for the entire period during which the NPS has been in existence – i.e. since the latter part of 2015⁸⁵. Some of the data we have been provided is highly granular and refers to specific spend on specific firms by public sector type, on an annual basis. Other data provided is more aggregate in its nature.

Our key findings across both datasets are not noticeably different from those we have previously observed. Firstly, we note that the entire public sector spend on solicitors' legal services via the NPS only equates to a very small percentage of aggregate revenues generated by Wales-based law firms, let alone law firms who trade in Wales but who are not based here. By way of – albeit imperfect – comparison, in 2018, the entire Welsh public sector spent £5.54m on solicitors' services on a pan-England and Wales basis. To put that figure in context, the aggregate annual revenues of Wales-based law firms alone was £408.11m, according to the most recent SRA data available⁸⁶. For this reason – as previously discussed – we doubt that Welsh public sector spending on legal services can significantly influence the overall health of the Welsh legal sector: its purchasing power is simply too modest.

Secondly, we observe that the Welsh public sector already spends a very high percentage of its external legal budget on law firms with a Welsh presence. This is true, irrespective of whether one is referring to the public sector collectively, or discrete parts of it. Between 2016 and 2018, for example, overall public sector spend on law firms outside Wales only breached 10% of the total in one year out of the three (2018). During that same period, around 90% of external legal spend was retained within the Welsh legal market. At its peak, barely 20% of work commissioned by Welsh local authorities was spent on law firms with no Welsh presence. This is despite Wales-headquartered law firms accounting for barely 1.45% of the overall English and Welsh revenue totals⁸⁷. We therefore doubt if the Welsh public sector could, collectively, seek to increase the percentage of legal work being sent to law firms with a Welsh presence, without raising legitimate questions about the objectivity of the procurement process.

⁸⁵ Local Government Lawyer. *National Procurement Service for Wales fires gun on £60-100m solicitors panels*, 7 April 2015.

⁸⁶ Jomati. *The legal sector in Wales: a rapid review (part one)*, March 2019, p11.

⁸⁷ *Ibid*, p11.

Table 15: breakdown of total NPS solicitor firm spend by the entire Welsh public sector

Year	Firms with Welsh postcode	Firms with base in Wales	Total spend in Wales	Total spend in Wales %	Total spend outside Wales	Total spend outside Wales %	Total spend overall
2015*	£81,055	£7,650	£88,705	93.71	£5,959	6.29	£94,664
2016	£1,237,412	£578,471	£1,815,883	95.24	£90,692	4.76	£1,906,576
2017	£1,706,275	£1,445,757	£3,152,032	90.69	£323,390	9.31	£3,475,422
2018	£3,188,843	£1,774,907	£4,963,750	89.57	£588,907	10.43	£5,541,657
Total	£6,213,586	£3,806,784	£10,020,370	90.94	£997,948	9.06	£11,018,319

*September – December only

Source: The Welsh Government

Finally, we observe that the financial value of spend on solicitors via the NPS has proven to be somewhat smaller than initially anticipated when first announced. When the NPS panel was first in the process of being created, its estimated value – based on the past three years of management information – was between £15 and 25 million per year. In fact, as table 15 above indicates, the actual total has proven to be far smaller – just £11.02 million between the final quarter of 2015 and the end of 2018. The Welsh Government has informed us that the Public Contract Regulations 2015 require a maximum financial value to be estimated. The Welsh Government has also represented to us that, at the time the NPS was being created, it proved difficult to determine which public sector bodies would ultimately use the NPS, and for what purposes. Nevertheless, what is undoubtedly true is that the actual value of the total NPS spend is considerably adrift from the Welsh Government's initial estimates.

Table 16, below, provides an illustrative, but more granular point of comparison in relation to one segment of the Welsh public sector: local authorities.

Table 16: breakdown of total NPS solicitor spend by local authorities in Wales

Year	Firms with Welsh postcode	Firms with base in Wales	Total spend in Wales	Total spend in Wales %	Total spend outside Wales	Total spend outside Wales %	Total spend overall
2015*	£51,166	£3,495	£54,661	91.55	£5,044	8.45	£59,705
2016	£526,935	£81,764	£608,698	88.98	£75,379	11.02	£684,077
2017	£680,148	£120,943	£801,091	79.64	£204,848	20.36	£1,005,939
2018	£1,363,051	£181,707	£1,544,758	92.97	£116,825	7.03	£1,661,583
Total	£2,621,300	£387,908	£3,009,208	88.21	£402,095	11.79	£3,411,304

*September – December only

Source: The Welsh Government

The spend data shown above suggests that there are no unambiguous trends towards sending more legal work to solicitors' firms outside of Wales. For example, while the percentage of legal work sent outside Wales by Welsh local authorities rose from 11.02% to 20.36% between 2016 and 2017, it then fell back to just 7.03% in 2018. Moreover, the granular spend data we were provided with indicates to us that this spike in non-Welsh legal spend can be almost entirely explained by one-off increases in the value of instructions provided to two England-based law firms. The value of Welsh local government legal work sent to these two specific legal practices rose from £6,136 in 2016 to £221,919 in 2017, only to fall back to just £4,110 in 2018.

This same one-off expenditure surge can also substantially explain why total public sector expenditure on law firms without a presence in Wales rose from £90,692 in 2016 to £323,390 in 2017, and from 4.76% to 9.31% of the total between the same two years. Neither of the firms responsible for this one-year spike received any meaningful instructions during 2018, across the entire public sector. These firms do not, therefore, represent a significant competitive threat to Wales-based law firm suppliers to the Welsh public sector.

The procurement of barristers' services via the NPS

It is our understanding that the NPS for barristers and solicitor advocates only came into existence in April 2017. For this reason, the NPS spend data provided to us by the Welsh Government in relation to barristers is less extensive than its solicitor firm equivalent. Notably, it contains just one complete calendar year of data, covering January to December 2018. The vast majority of this spend – around 98% – relates to spend on just one segment of the Welsh public sector; local authorities. Our analysis of NPS spend data on barristers is, therefore, inevitably brief.

Arguably, the key headline figure is that total NPS expenditure on barristers during the 2018 calendar year was a mere £271,170. This is considerably less than the estimate offered in the "Invitation to Tender for the Provision of Legal Services by Barristers / Solicitor Advocates" document, which stated that "for information purposes, we anticipate the level of professional fees to be paid through this agreement to be £10 million.⁸⁸" In the tender document, this estimate was heavily caveated, with no timeframe given for this estimated value total. Moreover, the Welsh Government has also strongly represented to us that it is "not mandatory for public sector organisations to use any of the NPS frameworks or panel agreements". Nevertheless, the mismatch between the estimated spend under this NPS, and the actual spend, is notable.

Unfortunately, because the Bar Standards Board has been unable to provide us with gross annual revenues for the Welsh Bar, we cannot state what percentage of the Welsh Bar's total turnover this Welsh public sector spend represents. However, because we know that there are roughly 300 practising barristers in Wales, we can state that the total Welsh public sector expenditure on barristers is the equivalent of slightly less than £1,000 per barrister. Of course, as we shall now discuss in more detail, not all NPS barrister spend data is spent on barristers based in Wales. However, the point worth emphasising is that the overall financial health of the Welsh Bar is not, and cannot, be significantly influenced by Welsh NPS spend.

After some confusion over the headquarters location of Cornerstone Chambers – which has a branch in Cardiff but is based in London – we can now state the total financial value and percentage of NPS barrister / solicitor advocate spend that was procured in Wales, compared with that sent to England. On a value basis, we calculate that £269,733 – out of a total of £271,170 – was spent via the NPS on barristers / solicitor advocates based England in 2018, compared with just £1,437 on barristers' chambers based in Wales. This equates to 99.47% spent in England and 0.53% in Wales. From the documents we have had access to, we believe that the NPS for barristers / solicitor advocates was never overtly intended to support the barristers' profession in Wales. Certainly, in 2018, no such preference occurred among those public sector organisations that made use of the barristers' NPS in Wales.

⁸⁸ Document reference NPS-PS0021-16, paragraphs 4.1 – 4.3.

Table 17: NPS spend on barristers' chambers, 2018

Chambers	Main location	Spend	% of total
11 KBW	London	£12,748	4.70
30 Park Place Chambers	Cardiff	£1,437	0.53
Cornerstone Barristers	London	£153,281	56.53
Francis Taylor Buildings	London	£66,303	24.45
Guildhall Chambers	Bristol	£37,401	13.79
Total		£271,170	100.00

Source: The Welsh Government

We understand that the NPS for barristers / solicitor advocates is open-ended and does not have a maximum number of barristers / solicitor advocates that can sign up for it. The barriers to entry for the NPS are therefore low, so long as specified quality standards are met. Unfortunately, the upshot of the open-ended nature of the NPS means that the actual likelihood of barristers / solicitors being instructed is also low. The data provided to us by the Welsh Government indicates that, on an England and Wales-wide basis, just six chambers out of 28 received any instructions during the 2018 calendar year. And, of the seven Wales-based chambers included on this 28-strong list, just two – including Cornerstone – received any instructions. By contrast, five did not.

A pattern of non-instructions is also evident when NPS barristers / solicitor advocate spend data is analysed on a practice-area-by-practice area basis. Just 11 out of the 26 practice area-based “lots” received any NPS spend during 2018. Moreover, just one practice area type, environmental and planning law, received the vast majority of this spend – £219,584 out of the 2018 total of £271,170. This means that barristers and solicitor advocates on the NPS list – Wales-based or otherwise – were effectively fighting for a residual £51,586 spend in 2018, across 26 different practice area work packages. This is clearly a less than satisfactory situation for the vast majority of barristers / solicitor advocates who are on the Welsh NPS panel.

One approach to managing expectations regarding the likelihood of instructions would be to place a limit on the number of permitted panel members, perhaps on a practice-area-by-practice-area basis. However, given the unpredictable nature of the Welsh public sector's barrister / solicitor advocate needs, we would be reluctant to advocate such a restriction. A less constraining approach to panel management might involve periodically informing panel members of recent NPS spend, both at an aggregate level and also in relation to their designated panel specialisms. This approach, we suggest, would allow panel members to decide – on an informed basis – whether they should remain on the NPS panel or, perhaps, seek alternative sources of instructions. Such a disclosure, we suggest, would be particularly helpful to panel members in light of the mismatch between 2018 actual spend and the estimated £10 million spend indicated in the original invitation to tender document.

Conclusions and recommendations

Based on our analysis of NPS spend data, our conclusions in relation to solicitors and barristers (and solicitor advocates) echo what we gave in relation to the Welsh Government's procurement of legal services. Firstly, we observe that the Welsh public sector's ability to influence the overall health of the Welsh legal profession via the procurement process is exceptionally limited. We suggest that it should not, therefore proceed on the assumption that it should. Instead, it should focus on making the procurement process as easy as possible for law firms (in particular) to apply for.

In relation to the procurement of solicitors' services, we suggest there is no inherent need to pursue an overtly "pro-Wales" strategy of procurement, given that law firms with a Welsh presence already win a high share of the work. For barristers, the situation is more complex. Overall, we observe that the revenue percentage of work being sent to barristers / solicitor advocates in Wales via the NPS is very small – possibly even smaller than the ratio of barristers / solicitor advocates based in England to that in Wales. Moreover, there is clearly a preference for the Welsh public sector to engage barristers who are based in London, almost to the exclusion of those who work from other locations. Those involved in the NPS may wish to learn from, and co-ordinate with, the efforts of the Welsh Government to diversify its barrister supplier base. Details of these various Welsh Government outreach initiatives, targeted at the Welsh Bar, can be found in chapter seven of this report.

Finally, wherever barristers / solicitor advocates who are on the NPS panel are based, we are concerned that only a few have any prospect of receiving a reasonable income from their membership of that panel. We therefore suggest a process of active periodic engagement with existing panel members, with a view to informing them of their likelihood of receiving instructions. Ideally, this process will result in the existing panel shrinking to a more realistic level, with those who remain on it more likely to receive a meaningful value of instructions.

Chapter nine: Working with the Welsh Government and wider public sector – the perception of the local legal market

As part of our research for this report, we sought the opinions of legal practice leaders regarding Welsh public sector procurement. We asked all interviewees if their practices worked for either the Welsh Government specifically, or the Welsh public sector more widely. If our interviewees' practice did not, we asked why. If they did, we asked for their opinions of the public procurement process specifically and also for their views of working for public sector clients more generally.

Among those that did not undertake public sector work within Wales, several were disinclined to even consider the option. In some cases, this was because their practice did not specialise in this type of work. But, in others, there was an antipathy towards a procurement-led approach in general. This antipathy meant that these firms did not even investigate the prospect of bidding for work where procurement was central to the purchasing process.

“My perception of the tendering process is that it’s old-fashioned, outdated, difficult to engage with – and the selection process is very much about the old familiars. So what’s the point in spending your time going into a competitive pitching process? I think the way that you can deliver great work is by building relationships. And you can’t build a relationship with government, because they can’t let you.”

Among those firms who did undertake Welsh public sector work, perception of the public procurement process varied enormously: some were happy with it, others less so.

“It’s very time-consuming. On the other hand, the NPS has been really good for us. Until the last few years, our public sector experience has been outside of Wales, and were finding it quite difficult to break into the Welsh market. But, thanks to our English experience, and the NPS, we actually did quite well on the tender process.”

“Our experience of working directly with the Welsh Government has been very positive.”

“It’s a pain, a pain, a pain, but you’ve got to do it. I think my profession whinges too much – you’ve just got to live with it. On the whole, tendering for Welsh Government work is no more complex – or painful – than in general in the UK. It’s certainly less painful than pitching for the European Commission – which is absolutely dreadful.”

Some practitioners complimented the Welsh Government for occasionally reaching out to them and inviting them to bid for specific projects. Others, though, complained for the opposite reason: that they had not been offered the opportunity to tender for work, because the Welsh Government has – erroneously – believed there was a lack of local expertise to instruct.

“What we find very disappointing is that there are certain areas of expertise when we have been told that the Welsh Government had taken the work outside Wales, because there wasn’t relevant expertise in Wales. And that is not true. We have that capability in our office. So that’s a frustration. There needs to be a more forensic examination of where the capability is, before they make that decision. If the Welsh Government want to see a thriving legal sector, they need to put their money where their mouth is.”

One issue, raised by several legal practice leaders, was the perception that, if a law firm was unsuccessful in bidding for a place on one panel, they would then be frozen out from bidding for work across the entire Welsh public sector. This approach was high risk, said one senior law firm representative; if their own firm had lost its panel position, they may have withdrawn from this specialism entirely, redeployed resources, and then not bid for similar work in the future.

Of course, whether individual public sector purchasing authorities only instruct panel firms – they are not obliged to – is another matter. Indeed, the willingness of some public authorities to use non-panel firms can sometimes cause approved firms to wonder why they had gone to the effort of securing a place on a panel in the first place.

“For firms like ours, the NPS is very onerous. We’ve done some work through this framework and we’ve also done some work where, actually, the procuring officer at the local body just gets around it. This makes us think that it’s not worth spending oodles of time on it when it’s not always followed anyway.”

In relation to the Bar, two key observations were made by those senior figures we spoke to. The first was the perception that – especially in relation to administrative and public law – novel work was routinely being sent to London, to the detriment of the Bar in Wales. This is perhaps not a surprising perception, given that – as discussed in the previous chapters – a significant proportion of Welsh public sector advocacy work is conducted by barristers who are based in the UK capital.

“People are very disappointed about the amount of work that is perceived – and I do stress the word ‘perceived’ – as leaving Wales, from public institutions, and going to England. That really does upset people. Most people want to be in Wales, support Wales, and contribute to Wales – and then work just goes out of Wales to people who don’t live in the country or contribute to the economy.”

“It’s a chicken and egg-type situation. The Welsh Government is sending work to London because they don’t have the people here – and people here say they aren’t going to get any experience because the Welsh Government sends work to London.”

The second problem is that even being an approved Welsh Government panel member often did not result in much work. Here, it is probably useful to remember that – according to the Welsh Government’s own data – 35% of its counsel panel members had not yet received any instructions.

“People have been very disappointed by the amount of work that has happened as a result of having been successful with their procurement application. People want to get on the panel, even though the rates of pay are very low.”

Conclusions and recommendations

In relation to law firms, our principal recommendation is that the Welsh Government does not overestimate its importance to the Welsh legal market. In the absence of a notable increase in external legal spend, we would therefore counsel against any temptation to load new obligations on panel members, in the name of “strategic partnership objectives”. Several of the Welsh Government panel members are already unenthusiastic about existing Welsh public sector procurement arrangements. Moreover, the Welsh Government’s choice of alternative legal services suppliers – especially in Wales – is limited.

We would also counsel against attempting to enhance the amount of money spent on Wales-based law firms, in the absence of an objective justification for such a move. The Welsh Government’s existing spend outside Wales is already modest. Where such spending does take place, much of it is focused on recognised public sector expert law firms that operate close to Wales’ borders.

Moreover, we think it important to reiterate that the market for public sector legal work is highly cross-border between England and Wales. Some law firms operating in Wales make far more money from English public sector clients than they do from Welsh public sector clients. Not least for their benefit, it is therefore essential that the market for public sector legal tendering remains open for all, no matter where in the UK a suitable legal practice has its offices.

That said, we do not believe there is anything wrong with the Welsh Government proactively seeking to build local legal capacity within Wales. We would, for example, be comfortable with the Welsh Government proactively reaching out to Wales-based solicitors who specialise in the types of law it requires assistance with, but do not currently feature on their approved panels. Here, the Law Society may be able to help: it publishes an online directory, which can be searched by both legal specialism and geography. If the Welsh Government is prepared to undertake this research – and also instruct those specialist practitioners it identifies – this approach should reduce the need to send specialist legal work out of Wales. A small amount of targeted support, and modest risk-taking by the Welsh Government regarding instructions, could substantially aid the local legal market.

In relation to barristers, we reiterate our conclusions offered in the previous chapters: namely, the existing panel membership is probably too large, and too few panel members have any realistic chance of meaningful instructions. For that reason, we suggest that the Welsh Government, and also the wider public sector, engages in frank discussion with its barrister supplier base about the value of work they are likely to receive as a result of their approved supplier status.

Chapter ten:

What support the Welsh legal sector would like to receive from the Welsh Government

The first part of this chapter explores the extent to which the Welsh legal profession maintains its own mutual support network. We explore this issue for three reasons:

- To discover where the legal profession is self-organising, self-teaching and self-networking, without the need for Welsh Government support or encouragement
- To help the Welsh Government to identify useful contact points within the Welsh legal profession, that it might consider useful to engage with in relation to specific issues
- To inform the Welsh Government where there appears to be little prospect of the Welsh legal profession collectively self-organising

The second part of this chapter explores legal practice leaders' views regarding Welsh Government support for the legal sector. Here, we firstly explore legal practice leaders' awareness of existing Welsh Government schemes, which may assist with the sector's development. We then explore those issues where Welsh legal practice leaders believe that targeted Welsh Government support might be useful.

Interview sampling

The opinions expressed in this chapter firmly reflect those of the legal practice leaders we were able to interview within the timeframe required by this rapid review. As part of our research, we repeatedly contacted in excess of 40 law firm leaders, at practices based across Wales. We specifically sought out legal practice leaders who led practices of different sizes and specialisms, and were based in a variety of locations. Unfortunately, the overwhelming majority of the legal practice leaders who agreed to contribute to our research were based in South and, to a lesser extent, West Wales. In relation to the practice area backgrounds of our interviewees, a broad range of legal specialisms were covered, both commercial and non-commercial.

The total number of Wales-based legal practice leaders specifically interviewed during the initial phase of our research was 17. Helpfully, however, the individuals we interviewed included the leaders of some of Wales' largest legal practices. Unfortunately, interview rates were particularly disappointing among barristers' chambers and within the in-house legal community. Helpfully, our follow-up survey yielded insights from an additional 37 respondents, thereby allowing us to reach a broader range of legal professionals than we were able to reach via interviews during the first phase of our research. Although still dominated by respondents based in South Wales, we were pleased to observe that a small number of law firms based in North Wales also took part. Representatives from several SME law firms also responded, as did individual members of the Welsh Bar and representatives of the in-house legal community. We also engaged with several senior public sector representatives.

Legal practice groupings

The Law Society of England and Wales has an office in central Cardiff. We understand that Welsh Government officials already interact with this office on a regular basis. In addition to this pan-English and Welsh Law Society, there are also several voluntary law societies operating across Wales. These law society groups include:

- Cardiff & District Law Society
- Monmouthshire Law Society
- Swansea & District Law Society
- West Wales Law Society
- Chester & North Wales Law Society

Some of the more active local law societies organise educational and social events, which we understand that Welsh Government representatives currently attend. Of these, perhaps the highest profile is Cardiff and District Law Society's annual managing partners and directors' lunch.

To the best of our knowledge, some parts of Wales – particularly mid-Wales – no longer have active local law societies. However, because the Law Society of England and Wales includes several Wales-specific seats on its governing council, the solicitors elected to those seats may serve as useful contact points for the Welsh Government in relation to those locations. Additionally, the Law Society of England and Wales operates both a dedicated Wales Committee and a junior lawyers division for South East Wales.

Neither the Bar Council nor its regulatory counterpart, the Bar Standards Board, has a direct presence in Wales. However, the Wales & Chester Circuit is probably the best contact point for the country's barrister community. Around 50 (one in six) of barristers in Wales belong to this grouping. We are not aware of any leaders group for barristers' chambers in Wales, either by reference to heads of chambers (practitioners) or senior clerks / chief executives (support personnel).

The pan-England and Wales Commerce & Industry Group, which represents lawyers working in industry, does not have a regional group in Wales. However, we are aware of an informal in-house lawyers group, aimed at corporate counsel based in the South Wales area. This group is, we believe, chaired by the Welsh Rugby Union's head of legal affairs, Rhodri Lewis. We believe this group comprises between 10 – 25 active members.

In the public sector, the Lawyers in Local Government association has a Wales branch, which meets once per quarter in Llandrindod Wells. This organisation is supported by all of the 22 Welsh local authorities, the three national parks in Wales and one of the Welsh fire and rescue authorities.

CILEx, the Chartered Institute of Legal Executives, has more than 1,000 members who live in⁸⁹, or adjacent to, Wales. It has branches covering the following locations:

- Chester and North Wales
- Cardiff and South East Wales
- Shropshire and Mid Wales
- South West Wales

⁸⁹ Justice Commission. *Submission to the Justice Commission from CILEx*, 14 June 2018, p2.

Below these profession-specific associations, we also note the existence of several additional groups that are active in Wales. These groups tend to focus on narrow areas of legal practice, education / training, business development, networking, and legal practice operational support. Illustrative examples of these types of group are set out in table 18 below. The list below is derived from our interviewees' personal areas of interest: we do not claim that it is exhaustive.

Table 18: law-related membership groups in Wales

Group name	Focus / memberships
Legal Wales	Aimed at all parts of the legal profession, but is notable for its judicial membership
Public Law Wales (The Wales Public Law and Human Rights Association)	Private practitioners, public sector lawyers, academia and the judiciary
Young Legal Aid Lawyers in Wales	Young Legal Aid Lawyers in Wales
Wales Commercial Law Association	Commercial lawyers in Wales
HR Legal Network in South Wales	Aimed at legal practice HR managers
Legal Network Wales	Legal work referral network across Wales, organised by Hugh James
Various private law firm leadership groups	Including those provided by CPM21, Sweetman and Partners and Jonathan Bray

One group type that is notably absent from table 18 above is any form of law firm leaders' association: to the best of our knowledge, no such group exists. This is a slightly odd state of affairs, given that Welsh managing partners network socially at local law society functions. In practical terms, the lack of a forum for law firm leaders in Wales means that the Welsh Government is likely to find it difficult to engage with this key group of stakeholders via any type of formal structure.

In case the Welsh Government is tempted to create its own law firm leaders' forum, we advise them to consider this option carefully. Among those law firm leaders we interviewed, few expressed anything beyond mild curiosity about the prospect of such a group. Given that this lukewarm attitude was clear among our South Wales-heavy interview cohort – i.e. among those legal practice leaders who work in proximity to Cardiff Bay – we wonder how the prospect of a Welsh Government-organised law firm leaders' forum would be received in Mid, West or North Wales.

In light of our numerous dealings with the legal profession around the world, over many years, we do not find this reticence by legal practice leaders toward the Welsh Government surprising. Instinctively, we find that many lawyers value their independence highly – including from their peers, let alone from government. The idea that they might be corralled into co-operation by a government, against their will, is likely to be anathema to their professional identity.

More specifically, from our discussions with law firm leaders, there appear to be four main factors inhibiting the creation of a forum for legal practice leaders forum in Wales.

- The first challenge is that, for some law firm leaders, their physical presence in Wales is of little consequence – the nature of their business means they could be located anywhere. For this group of individuals, whose practices are not dependent on referral work from other local firms, there was no real benefit to “plugging into” the local Welsh legal community. Instead, these individuals were more interested in cultivating their networks in their firm's client industries, wherever those clients happen to be located

- Secondly, among those law firm leaders who did consider themselves to be part of a Welsh legal community, they also considered themselves to be part of a community of rivals – albeit often “friendly rivals”
- Thirdly, the firm representatives we spoke to generally regarded their practices as being successful: there was no “fear factor” about their current situation, which might incentivise them to seek out peer group support in the name of mutual survival
- Finally, some law firm leaders highlighted the differences in their strategies and priorities, compared with their peers. As a result, they did not regard themselves as facing common problems with their peers, which local collaboration might help to overcome

As one of our interviewees succinctly put it:

“The one thing that unites us is that we all have different strategies – so the scope for co-operation is limited. There’s no appetite for collaboration whatsoever. The reason firms don’t want to collaborate is because they don’t need to.”

The unwillingness of Welsh law firm leaders to even consider creating a local forum does not bode well for any proposal to organise a “legal Wales” promotional campaign – an idea that appears to be floating around the Welsh legal market. One of our interviewees, recalling a previous Welsh Government plan along these lines, noted with incredulity the prospect of handing over tens of thousands of pounds to promote Cardiff as a centre of excellence for legal services. Not even the promise of match funding from the Welsh Government was enough to convince this practitioner that it was a good idea.

“It’s just not going to work. I get that you have to try to help yourself – but it’s quite difficult to ask law firms to spend money promoting Cardiff when you’re all rivals in one form or another.”

Awareness of Welsh Government support for the legal sector

Prior to commencing our interviews with legal practice leaders, we were informed by the Welsh Government of various schemes that the Welsh legal sector might consider applying for, such as the SMART Partnerships and SMARTInnovation. These schemes aim to help Welsh businesses – of all types – to develop their R&D activities.

In order to gauge awareness of these sorts of schemes, we informed our interviewees – in advance – that we would be discussing the issue of Welsh Government support. And, during our discussions with our interviewees, we asked them if they could recall – unprompted – any form of Welsh Government support. The following responses were typical among the legal practice leaders we interviewed:

“Nothing’s popping into my head. Sorry!”

“Nothing. I’m not privy to any, actually.”

“No, sorry. A few years ago, we enquired about support in relation to IT. But, right now? Nothing.”

“None of which we are aware.”

“I’m not aware of any specific initiatives right now. But, when we do get emails, it’s more a case of ‘how can you adapt to our requirements?’.”

There were, however, two exceptions to this general response.

Firstly, several of our interviewees specifically mentioned their interactions with the Welsh Government's legal and professional services contacts. As one interviewee put it: "Everybody knows 'X'. Whenever there is an event which has lawyers attending, 'X' will be there – pushing: 'Welsh Government can offer this support'." This response suggests that the Welsh legal profession is, at least, vaguely aware that the Welsh Government is willing to offer their sector support – even if they cannot identify individual schemes the Welsh Government is actively promoting. Moreover, this response also suggests that many law firm leaders know who in the Welsh Government they should contact, should they have any interest in any of the support schemes being offered.

The second unprompted response focused on what one of our interviewees diplomatically described as "financial incentives", but which others described in less flattering terms.

Some interviewees left us in no doubt about their views of such schemes:

"There's no shortage of lawyers in Wales and there's no market failure in the legal profession. It's really annoying that it's happened. It's stupid, thick. Law firms are the least deserving sector for Welsh Government intervention."

Others were more polite about being offered direct Welsh Government financial assistance.

"We were approached about three years ago about some funding for the creation of jobs. When we looked at it, we decided it probably wasn't right for us."

Several of our interviewees made it clear that they had an ideological objection to the very notion of government support.

"My personal view is that I don't feel, as a business, that we should be looking for individual tailored support from the Welsh Government. I'm more interested in what the Welsh Government can do to help legal services by creating a good environment in which law firms can operate."

"I don't want money from the Welsh Government. Our competitive sector is strong enough not to need this type of intervention."

"I have an unfashionable view, which is that law firms are businesses. We should be keeping ahead of the game, whatever the circumstances. It's our responsibility to do that – it's not government's responsibility. I'm quite annoyed with some of my fellow practitioners, who complain that the government isn't doing enough for them. Why should the government be doing anything for them? The government owes them nothing."

Other legal practice leaders we interviewed were noticeably less hostile to the notion of Welsh Government support. However, for several of these individuals, it simply did not occur to them to even consider this option. Instead, they were far more likely to be focusing their efforts on "ploughing their own furrows", growing their businesses, or implementing their own practice's development strategies.

Where Welsh Government support might be valued

Several of our interviewees were either unaware of, or actively hostile to, Welsh Government support – particularly financial support. However, some also offered specific suggestions where highly targeted Welsh Government support might be useful. Two broad themes were mentioned by several interviewees: firstly, LegalTech, and secondly junior level recruitment – an issue that was occasionally mentioned in conjunction with legal apprenticeships.

“Legal technology is a big issue for us. We know the world is changing, but we don’t know where it’s going to end up. We don’t know what we’re supposed to be looking at. What if we plan something and it goes wrong? There’s just too much information. Some help around that would be really useful.”

“I feel that LegalTech training is highly important in the legal sector for Wales during the next decade. The possibilities of AI will be critical.”

“I think LegalTech definitely, because we’re a little lost. Everyone’s looking around and saying: ‘What do we need?’ We’re all being encouraged to go down that route, but without much guidance at the moment.”

“We have offered training contacts, CILEx, you name it. We would be interested to see if apprenticeships or LegalTech might assist our recruitment of staff generally.”

“We have a number of growth opportunities that are knocking at our door that we can’t take. At the moment, we’re struggling to recruit junior people with the right skillsets.”

“Employers don’t really understand the apprenticeship issue. I think there’s a demand – it’s just a case of helping us to understand what’s on offer.”

We previously discussed legal apprenticeships in Wales in chapter five of this report. In light of the current lack of provision by Wales-based legal vocational education providers, the fall-off in take up of apprenticeships by the Welsh private practice community, and the unknown Welsh penetration by English-based vocational training providers such as CILEx and Pearson, the “employers don’t really understand the apprenticeship” comment above is, we suggest, completely understandable.

In relation to LegalTech, we note that there have been at least three events on this subject in Wales within the past two years: a “robotics and law” event, held at the Tramshed in Cardiff in September 2017, organised as part of a wider digital festival; LegalTech Wales, organised by Swansea University in January 2018; and an event on the use of algorithmics in the justice system, organised by the Law Society in Cardiff, in February this year. We also note that Swansea University is currently planning to deliver a LegalTech summer school between 5 – 9 August 2019.

This level of existing LegalTech educational activity indicates that we should be wary of recommending that the Welsh Government should organise its own LegalTech event in Wales – unless none are due to take place following Swansea University’s August 2019 event. If future events are planned, then we suggest that the Welsh Government should actively promote those events to the Welsh legal profession. Only if no events are planned would we suggest that the Welsh Government consider organising one.

Conclusions and recommendations

Our research suggests the Welsh legal profession is generally a sociable one, which is willing to self-organise and offer mutual support where it sees a benefit of doing so. The sociable nature of the Welsh legal profession means that the Welsh Government has numerous “touchpoints” available to it, should it need to engage with specific sections of the profession in relation to specific issues.

However, we also note that there are currently no groups for legal practice leaders that the Welsh Government can formally engage with – for either law firms or barristers’ chambers. In reality, we doubt this is likely to change in the future, in light of the feedback we received during our research for this report. Perhaps the most realistic option available to the Welsh Government is to continue to attend those events where legal practice leaders are known to gather, and engage with the practice leaders at those forums. Maintaining close contact with the Law Society in Wales will also help keep additional lines of communication open.

That said, we also suggest that the Welsh Government should actively seek to engage with those Wales-based legal leaders who are important local employers, but do not currently “plug into” the local legal networking circuit. A notable feature of some of these firms is that they do not look like conventional legal practices, and will therefore exist “below the radar” within the Welsh legal community.

Our research suggests that legal practice leaders either don’t know, or don’t care, about direct financial support offered by the Welsh Government. Given this mindset, we doubt that, in future, it is worth pursuing a strategy of overt financial support to the Welsh legal profession. That said, we can see the value of continuing to have a single point of contact within the Welsh Government, who is widely known within the Welsh legal community.

In future, it may be more useful for the Welsh Government to lend its support to specific issues, where the legal profession – collectively – is struggling to understand the current landscape. We highlight legal apprenticeships and LegalTech as two illustrative problem areas, where policy clarity (in the case of apprenticeships) and awareness raising (in the case of LegalTech) might justify some form of modest Welsh Government activity.

Chapter eleven: A separate legal jurisdiction – the views of the legal profession in Wales

In this chapter, we consider two elements of the Welsh jurisdictional issue. Firstly, we briefly consider the scenario where the Welsh Government gains control of Wales' overall justice policy. The second – far longer – part of this chapter considers the establishment of a separate Welsh legal jurisdiction, and some of the key elements that comprise this concept.

In both sections of this chapter, we have not approached the separate jurisdiction issue from a political or ideological perspective. Instead, a significant percentage of our analysis draws on feedback we have received from members of the legal profession in Wales. This feedback is derived from two sources: firstly, from 25 interviews. These interviews were principally undertaken with senior private practice lawyers during phase one of our research, but supplemented with a small number of additional ones during phase two. Secondly, from 37 responses to a small-scale survey, undertaken during phase two of our research. Compared with our initial interviews, which were predominantly undertaken with representatives of large law firms based in South Wales, respondents to our survey were more likely to be barristers or in-house counsel, work for smaller legal practices, and be based elsewhere in the country.

Justice policy

If, in relation to justice policy, Wales were to achieve a similar settlement to Scotland, a range of new roles and authorities would be devolved to Welsh Government oversight. Policy and budgetary competency would include policing, prisons, probation, the courts operating in Wales and legal aid. As a result, and subject to the level of funding available, the Welsh Government would have the ability to reprioritise its spending in relation to these areas in a manner that it thinks appropriate for the specific needs of Wales.

In relation to the legal sector specifically, this could have a number of important practical outcomes. It would, potentially, be possible for the Welsh Government to refocus legal aid expenditure in a way that seeks to overcome emerging advice deserts within the country. Investments could also be made in Welsh court infrastructure. This could include investing in enhanced court facilities in Cardiff, with a view to making it an attractive and efficient centre for the settlement of disputes. Given some of the concerns expressed over the appropriateness and cost of IT programmes run by the UK Ministry of Justice, the Welsh Government might be able to take a more focused and cost-effective approach to the use of IT in Welsh courts.

In light of the feedback we obtained from the legal profession in Wales, our impression is that lawyers in Wales could – potentially – be supportive of the Welsh Government's control of these areas.

“To my mind, the two things where the Welsh Government could begin to make a difference would be in terms of administration of the legal aid budget in relation to Wales and the administration of court estates in Wales. The difficult political question is that this involves the willingness to take on board budgetary responsibilities.”

“Don't spend money on wasteful computer systems that don't work, spend it on legal aid, or rural magistrates' courts, access to justice. That's my view.”

On a related point, one of our survey questions asked respondents to identify the greatest challenges facing their businesses. Here, several highlighted the “devastating cuts to legal aid” and the low rates of pay for the residual legal work that remained. We therefore suggest that legal practitioners in Wales will be more likely to support the justice policy aspect of a separate jurisdiction if the likely outcome of devolution is increased Welsh Government financial support.

Understandably, legal profession leaders have vigorously complained about the scale of the cuts to the legal aid budget in recent years, and typically call for them to be reversed. But, amidst the pain of the withdrawal of legal aid, our wider research has uncovered some practical responses to what has happened. The two examples offered below represent a snapshot of activity involving areas of law that have been affected by the withdrawal of legal aid. We do not suggest that these responses highlighted offer a desirable alternative to fully-fledged, publicly funded, lawyer-led advice services. What they do, however, is illustrate how necessity can sometimes be the mother of invention. For that reason, we would be wary of recommending that the Welsh Government should simply reverse previous legal aid cuts; instead, we suggest that such a reversal should only occur if no alternative delivery mechanisms have successfully been delivered since these cuts were introduced.

Immigration law: immigration law is one of the few areas of law in England and Wales that can only be offered by an accredited professional – either lawyers or individuals certified as competent by the Office of Immigration Services Commission (OISC). When the legal aid cuts prompted a collapse in the supply of advice by lawyers and the not-for-profit sector, Refugee Action stepped in. It did so by creating a free online training programme, aimed at people with no legal background, that could train them to a sufficiently high standard that they could pass the OISC’s accreditation process within just five days. It is understood that Refugee Action’s scheme has now trained almost 500 advisors across England and Wales⁹⁰.

Divorce and civil partnership dissolution: CourtNav, a tool developed by the Royal Courts of Justice and Freshfields Bruckhaus Deringer, guides litigants in person through the process of filing a divorce or civil partnership dissolution. The service, part funded by the Ministry of Justice, offers users a series of simple questions, with the information collected used to populate complete standard forms. Once this key information is collected, the form is then reviewed by a solicitor to ensure everything is in order. At this point, the user is able to download the form and submit it to the relevant court⁹¹.

Both of the examples offered above allow more law-related services to be delivered, thereby increasing capacity. In the case of Refugee Action’s solution, the principal output is an increase in supply of OISC-accredited advisors. By contrast, in the case of CourtNav, a solicitor can now review more court documents than previously – the “value add” part of their role. This is because they no longer have to spend a significant amount of their time gathering preliminary data, which is now collected by the online questionnaire.

⁹⁰ The Justice Gap. *Fighting immigration law advice deserts*, 16 January 2019.

⁹¹ Lawyer Firm News. *Access to justice: can technology solve the UK legal aid crisis?* 5 November 2018.

Separate jurisdiction considerations part one: the divergence of laws

One pre-existing component of a separate legal jurisdiction for Wales is, of course, the development of a distinctive body of Welsh law. At present, we understand that the amount of law that is divergent between England and Wales is limited. However, over time, it is inevitable that this difference will increase, as the UK Parliament continues to pass legislation that is only applicable to England and the National Assembly for Wales passes legislation that is only applicable to Wales.

Perhaps not surprisingly, the growing differentiation between Wales-only and England-only laws was welcomed by some of the legal practice representatives in Wales we contacted. These individuals had identified this divergence as a potential source of market differentiation – and income.

“We already sub-contract from English law firms, who have got projects going here, and we close off the Welsh law angle for them.”

“I suspect we could potentially have an increase in clients wanting advice prior to entering into contracts with entities based in England/Northern Ireland.”

“It might mean more work. More laws mean more complications.”

“We would look to take advantage of any change by looking for niche areas of work.”

However, offering a different perspective on the separate jurisdiction issue, other legal practitioners in Wales told us that they feared, in future, being seen as “Welsh only” lawyers. Even if the law of England and Wales remained substantially the same, these practitioners were concerned that some of their English clients would switch to instructing lawyers / law firms in England, largely on the basis of a perception that Wales was “different.”

“60 - 70% of our turnover is from work across the border in England. And my fear is that, if we had a separate legal jurisdiction, we would be marginalised. We’d be seen as ‘You’re in Wales, you can only do work in Wales’.”

Such a perception is, unfortunately, difficult to quantify – and also difficult for the Welsh Government to counteract. Nevertheless, we suggest that the Welsh Government be alive to this perception as it decides just how distinctive it would like the Welsh law to be. What might be regarded as a commercially advantageous point of difference by some lawyers in Wales might equally be regarded as a potential impediment to cross-border legal advice by others.

On a related point, it should be appreciated that the divergence of laws between England and Wales may – potentially – cause Welsh law firms to be seen as takeover targets. In recent years, there has been a modest trend for English-based / international law firms to acquire legal practices based in devolved UK locations, as they seek to boost their UK-wide “local” law capabilities. In Scotland, for example, Pinsent Masons merged with McGrigors in 2012⁹², Dundas & Wilson with CMS in 2013⁹³, Maclay Murray & Spens with Dentons in 2017⁹⁴. Similarly, in Northern Ireland, DWF acquired C&H Jefferson⁹⁵, and Shoosmiths acquired McManus Kearney in 2016⁹⁶. The rise of the multi-state / multi-jurisdictional law firm is very much a global phenomenon. We see no reason why the Welsh legal sector would be immune to such cross-border consolidation pressures, in the event that Wales becomes a distinctive legal jurisdiction in its own right.

⁹² Pinsent Masons. *Pinsent Masons and McGrigors agree to merge*, 6 February 2012.

⁹³ CMS. *Dundas & Wilson joins CMS, further strengthening its energy and financial institution practices and Scottish business*, 12 December 2013.

⁹⁴ The Scotsman. *Maclay Murray & Spens name to disappear in Dentons tie-up*, 21 July 2017.

⁹⁵ Law.com. *DWF to enter Northern Ireland via merger with 20-partner firm*, 28 November 2016.

⁹⁶ The Lawyer. *Shoosmiths moves into Northern Ireland via Belfast merger*, 2 December 2016.

That said, it should also be appreciated that, in the case of the Scottish legal sector, the specific dynamics of this market also played a part in the recent consolidation of Scotland and England-based law firms, over and above jurisdictional considerations. In the aftermath of the financial crash of the late 2000s, it is widely understood that the Scottish legal market suffered from a significant fall in instructions, as previously Scotland-based major financial institutions relocated their headquarters to England⁹⁷. The Scottish legal market was therefore undergoing something of a crisis at the time that England-based law firms went on their acquisition trail.

The above-mentioned scenario is not likely to be replicated in Wales, which is not home to a large financial services sector. Nevertheless, the Scottish example does illustrate how quickly a legal market can be transformed in a manner that is partly driven by external market events. In light of the specific legal specialism focus of the Welsh legal market – summarised in chapter three of this report – it may be prudent for the Welsh Government to undertake a risk assessment of potentially significant external risks to the Welsh legal sector. It is one thing to have a separate legal jurisdiction: it is quite another to have a vibrant legal market in that jurisdiction.

Separate jurisdiction considerations part two: divergent laws, divergent courts?

The divergence of laws in England and Wales also has implications for which courts should be allowed to rule on disputes between parties. Should courts across both countries continue to have jurisdiction over such matters, as now? Or should Wales-only law only be capable of being decided by Wales-only courts?

It is our understanding that the Welsh Government intends to create a distinctive court system for Wales in phase one of its plans for a separate jurisdiction. This would include the creation of a Welsh Crown Court, Family Court, High Court and Court of Appeal. We understand that the Welsh Government envisages that judges appointed to serve one court could also serve on another⁹⁸. We also understand that it is proposed by the Welsh Government that judgments issued by Welsh courts would not bind English courts – even lower ones. Any lack of binding precedent between the courts of England and Wales could also potentially accelerate the divergence of law between England and Wales.

In relation to the creation of a separate court system for Wales, very few of our interviewees or survey respondents offered any opinion on this issue – suggesting it was not high on their list of interests or concerns. However, among those that did discuss this matter, there was a tendency to focus on one issue: local capacity. One commentator said they feared that “a separate court and judicial system would lead to less quality, as the gene pool is too small”. Others observed:

“Every one of my lawyers here sends all of their cases to London. The reason for this is that, in Wales, you’ve got three judges. By contrast, in London, you’ve got about 200 of the finest brains of their generation.”

“The local courts here do not have the capacity to process the number of new claims that we deal with. For that reason, we issue proceedings in various courts in England.”

The issue of court capacity is not, of course, an issue that is inherently jurisdiction related – any lack of capacity may be equally challenging in parts of England, just as the feedback we gathered suggests it may be in Wales. However, given that the Welsh Government intends to take over policy oversight for court-related matters, it will therefore be incumbent on it to address the challenges relating to capacity identified during our conversations with the Welsh legal profession.

⁹⁷ The Lawyer. *When management fails: a tale of Scottish law firms*, 8 October 2015.

⁹⁸ Justice Commission. *Evidence to The Commission – The Government and Law in Wales Bill*, 10 April 2019, p6.

Separate jurisdiction considerations part three: addressing the choice of law challenge

In some situations, individuals and businesses operating in Wales are already obliged to obey distinctively Wales-only laws: it is the “law of the land”, which cannot be circumvented. The court system of Wales would be a natural “home” to adjudicate on such matters.

However, in many law-related situations – such as the drawing up of private contracts – parties can choose which law will apply to their agreement, and which court system will adjudicate on it in the event of a dispute. And, post-separate jurisdiction, several of the legal practice representatives we spoke to indicated it was highly likely that the market preference would be that English – not Welsh – law, would tend to be the contracting law of choice.

“At the moment, all contracts are English and Welsh law. So what will happen is that you will just write contracts that are subject to English law.”

“I’m pretty confident that nobody’s going to choose that [Welsh law] as the choice of law, or their choice of jurisdiction.”

“The majority of our legal spend would continue to be subject to English law and jurisdiction and serviced from whoever is best placed to advise us.”

“If people have the option of choosing [the laws of] England or Wales they are much more likely to choose England, which would leave Welsh courts with no role to play.”

We do not claim to be experts on the legal enforceability of governing law clauses. However, it is our understanding that the default legal position is that an express choice of law should be respected by the courts – only where no choice of law clause has been included in an agreement does the locality of the parties in a dispute come into play⁹⁹. Similarly, experiences from Scotland suggest that contracts entered into by Scottish residents can be significantly governed by English law, with Scottish law only becoming relevant to the contract where the contract’s terms are expressly disallowed under Scottish law¹⁰⁰. This suggests that, if the predictions made by our interviewees above prove to be correct, standard form contracts – currently drafted by reference to English and Welsh law – may well retreat into being governed by English law only, in a post-separate Welsh jurisdiction environment. Crucially, the default legal position appears to be that the Welsh courts will be obliged to respect the parties’ governing law clauses – including any stated preference for English court jurisdiction.

The choice of law issue is one that the Welsh Government will need to consider as part of its strategy to develop a separate jurisdiction for Wales. Here, it may be useful for the Welsh Government to canvass the views of the Welsh profession, in some detail, about the extent to which they deliver legal services that are intrinsically tied to Wales – and therefore its justice system – and the extent to which they deliver legal services that are largely a matter of client choice. It may also be useful to explore governing law market preferences in relation to, for example, the legal services sector in Scotland and Northern Ireland. An understanding of this issue would help inform the Welsh Government about the likely level of service demand within the Welsh court system in a separate jurisdiction environment.

⁹⁹ Ashurst. *Governing Law Clauses*, 6 February 2019.

¹⁰⁰ Scottish Legal News. *Blog: Can an English clause oust Scots law rights in a consumer contract?* 5 December 2017.

In the event that such research reveals a potential “flight of work” across the border to England, the Welsh Government would also need to consider how it might promote Welsh law as an attractive alternative to its English equivalent, for those matters where a choice of governing law is possible. Indeed, we note that the Welsh Government already appears to be thinking along these lines. In its August 2018 submission to the Justice Commission, for example, the Welsh Government suggested that making court fees cheaper in Scotland than in England and Wales might prompt “many Scottish lawyers who use English law and English Courts” to “think again”¹⁰¹ about their jurisdictional preference. In light of this example, we suggest that one line of enquiry that the Welsh Government may wish to pursue is whether a court fee differentiation between the English and Scottish courts did, indeed, prompt Scottish solicitors to suggest to their clients that Scottish law should be used in preference to English law.

Separate jurisdiction considerations part four: practice rights

Of all the issues surrounding a separate jurisdiction for Wales, the one that was arguably the most contentious among practitioners related to practice rights: would current practitioners, admitted to practise across England and Wales, be permitted to do so following the creation of a separate jurisdiction for Wales? And would lawyers admitted post-separation also have cross-border practice rights?

On this point, we note that it is the Welsh Government’s intention that cross-border rights should continue to exist during phase one of its plan for the creation of a separate jurisdiction¹⁰². We also note a recent Welsh Government submission to the Justice Commission, in which it was stated that “in practice the notion of an English lawyer being able – more or less as of right – to practise in Wales (and vice versa) is something that should continue indefinitely”¹⁰³. On this issue, the views of the lawyers we canvassed were clear, and agree with the Welsh Government’s recently stated view: cross-border practice rights should remain, even post separation.

“We just don't want to be having a separate qualification or anything like that – because it will just stop us being competitive. So, my personal view is: ‘light touch please, really light touch’.”

“I think it should be a porous border, which allows practitioners who are qualified in England to practise in Wales and practitioners who qualify in Wales to practise in England.”

“If there was a separate jurisdiction, we would still need to have access to England. There’s not enough high-quality specialist work in Wales.”

“There is not a lot of legal work in Wales: the vast majority of the commercial law firms in Cardiff will be doing the majority of their work in England or further afield.”

We also note that, in its submission to the Justice Commission, the Bar Council of England and Wales made a very practical observation on this point: it observed that “very many” barristers that serve the North Wales market are based in Chester. This fact “would add a further complexity to any attempt to split the Bar between England and Wales”¹⁰⁴.

¹⁰¹ Justice Commission. *Supplementary evidence of the Welsh Government to the Commission on Justice in Wales*, August 2018, P17.

¹⁰² Rawlings, H and Hughes, D / The Welsh Government. *The Government and Law in Wales (Draft) Bill*, p26.

¹⁰³ Justice Commission. *Evidence to The Commission – The Government and Law in Wales Bill*, 10 April 2019, p7.

¹⁰⁴ Justice Commission. *Submission to the Commission on Justice in Wales from the Bar Council*. 10 January 2019, p2.

Ultimately, it will be for the for Welsh and British Governments to decide what – if any – form of restrictions would be placed on solicitors practising across England and Wales, in a post-separate jurisdiction environment. However, it is worth noting that – today – solicitors who are admitted to practise in both Ireland and Northern Ireland can also become admitted to their equivalent professions in England and Wales with no, or few, preconditions¹⁰⁵ – Scottish solicitors face a more onerous requalification regime to practise in England and Wales, due to Scotland’s distinctive legal culture. In the case of Northern Ireland, no assessments whatsoever for the admittance procedure need to be undertaken. In the case of Irish solicitors, a single test in land law is required¹⁰⁶.

We cannot, therefore, conceive of a scenario where the Welsh Government would wish to introduce restrictions on English solicitors’ practising rights in Wales that were more extensive than those that already exist in Ireland and Northern Ireland. Indeed, we welcome the fact that Section 82 of the Welsh Government’s Draft Government and Laws in Wales Bill envisages enshrining suitably qualified legal practitioners’ cross-border practice rights in law, seemingly in perpetuity.

Regulatory issues aside, in reality, the ability of lawyers to offer competent legal advice across England and Wales may well decrease, if there is a significant divergence between English and Welsh law – especially in relation to core legal principles. Here, we believe that there appears to be an emerging challenge, in terms of access to Welsh law guidance materials, which legal practitioners should be able to draw on to educate themselves about such differences. We shall return to this issue in the following chapter, in the context of our assessment of the teaching of Welsh law at Welsh universities.

Separate jurisdiction considerations part five: regulatory oversight

The final key issue in relation to the creation of a separate jurisdiction for Wales is that of regulatory oversight. Currently, the multiplicity of legal professionals in England and Wales are regulated by various pan-English and Welsh legal regulators, all collectively overseen by the Legal Services Board (LSB). One key question posed by a separate legal jurisdiction is therefore as follows: should there be a separate lawyers’ regulatory system for Wales?

Given that the Welsh Government intends to allow lawyers to practise freely across England and Wales – at least in the short-term – we struggle to envisage a scenario where a separate regulatory framework would be required as a matter of urgency. Indeed, a continuation of the status quo appears to be the Welsh Government’s favoured position, at least in the short term¹⁰⁷.

¹⁰⁵ Solicitors Regulation Authority. *Exemptions for UK and Ireland lawyers and barristers of England and Wales*, August 2018.

¹⁰⁶ Solicitors Regulation Authority. *Northern Ireland and Republic of Ireland Lawyers*, August 2018.

¹⁰⁷ *Ibid*, p17.

More practically, we suggest that – with the notable exception of the 3,500-strong solicitors’ profession – the majority of the legal profession in Wales may simply be too small to make it viable for it to be regulated on a Wales-only basis. Referring back to our observations made in chapter three of this report, we observe that the Bar in Wales consists of a mere 300 practitioners¹⁰⁸, the Costs Lawyer profession currently has 15 members¹⁰⁹ in the country, while the Chartered Trade Mark Attorney profession has 10¹¹⁰. These smaller legal professions are often overlooked in debates about professional regulation – and, indeed, in the Welsh Government’s own analysis of the regulatory organisations that are relevant to the separate Welsh jurisdiction debate¹¹¹. However, we believe that it is essential that all legal professions in Wales are considered in the context of this issue. We suggest that it would be intellectually and operationally inconsistent to create a Wales-only regulator for some of Wales’ legal professions, but not others. Such a move would also significantly complicate the oversight role of the LSB.

In terms of practitioners’ views on this topic, few of our interviewees or survey respondents offered any opinions at all – suggesting that this issue was not one they had thought about. Among those handful of practitioners that did offer an opinion, comments made tended to focus on the compliance costs associated with being governed by multiple sets of professional rules. Of course, such costs are already a fact of life for any legal practice that operates on a multi-jurisdictional basis, including those with offices across England, Scotland and Northern Ireland.

¹⁰⁸ Jomati. *The legal sector in Wales – a rapid review (part one)*, March 2019, p16.

¹⁰⁹ Association of Costs Lawyers. *Find A Costs Lawyer service – Wales*.

¹¹⁰ Chartered Institute of Trade Mark Attorneys. *Find a member services – Wales*.

¹¹¹ Justice Commission. *Evidence to The Commission – The Government and Law in Wales Bill*, 10 April 2019, p23 - 33.

Conclusions and recommendations

Our research suggests the Welsh legal profession has a multi-faceted opinion of the Welsh jurisdiction.

In relation to the Welsh Government's competence for justice policy, the feedback we obtained indicates that the Welsh legal profession's endorsement of the Welsh Government taking over the policy is likely to be conditional on the promise of additional legal aid funding. Certainly, the Welsh Government may wish to adopt such a policy. However, in considering its approach to addressing access to justice and advice desert issues, the Welsh Government may wish to bear in mind how the justice market has responded to the absence of legal funding – especially where it has embraced technology, in an attempt to fill that gap. It may be the case that, in specific circumstances, cost effective alternatives to lawyers have now proved to be a viable option.

In relation to the creation of a separate courts and / or lawyers' regulatory system, there appears to be little in the way of strongly held opinions in relation to such developments. That said, we encourage the Welsh Government to carefully consider the level of resourcing required to create and operate a Wales-only infrastructure, in the event that the infrastructure is no longer shared with England.

What appears to trouble the legal profession most intensively about the Welsh jurisdictional issue is its potential to raise barriers to the free flow of work and legal professionals between England and Wales. We therefore suggest that the Welsh Government communicate its short term "no restrictions" message loudly to the profession, and also explain its long term thinking on this point.

Finally, we also encourage the Welsh Government to consider how it will address the choice of law issue, given that this matter is effectively beyond its ability to control. Outside the captive Welsh market – which encompasses those legal issues that can only be dealt with within the Welsh justice system – how many legal practices and their clients will choose to use Welsh law on a daily basis, in preference to that of the law of England? We suggest that the Welsh Government should seek to evaluate this issue as a matter of urgency – not least so it can begin to predict possible future demand within a Wales-only courts service. We suggest a two-fold approach to investigating this issue:

- The Welsh Government should extensively canvass the views of the Welsh profession about the extent to which they deliver legal services that are intrinsically tied to Wales, and the extent to which they deliver legal services that are largely a matter of client choice
- It may also be useful for the Welsh Government to explore the governing law preferences in relation to the legal services market in Scotland and Northern Ireland. This examination might provide an impact assessment of the extent to which the local laws of smaller UK jurisdictions are chosen in preference to the current combined English and Welsh jurisdiction alternative

Chapter twelve: A separate legal jurisdiction – the supply of expert knowledge

As part of our analysis of the current preparedness of the Welsh legal market for a separate legal jurisdiction, we felt it appropriate to explore the teaching of, and research into, Welsh law at Welsh universities. Firstly, we felt, this would enable us to better understand the supply of law graduates who were familiar with Welsh law, and who might ultimately form the basis of a “devolution savvy” generation of lawyers in Wales. Secondly, our (admittedly) brief research into Welsh law has given us an elementary insight into the prevalence of Welsh law materials and expertise, whose specialist insights can be drawn on by practitioners, government officials and the wider community in Wales.

The research process for this chapter involved three distinctive steps. First, we reviewed the undergraduate (LLB) courses, as outlined on Welsh university websites, with a view to seeking Welsh law-specific courses. We focused on LLB, rather than postgraduate law courses, because these are the most popular academic legal courses delivered by Welsh universities¹¹². Secondly, we interviewed senior figures from Welsh law schools. Helpfully, these interviews allowed us to gain greater insights into the nature of the teaching of Welsh law, which might not immediately be apparent from a review of the university’s online LLB course summaries. Additionally, these interviews allowed us to gain an overview of the extent to which Welsh law was being researched at Welsh universities. These open discussions with Welsh law school representatives also allowed us to discover where Welsh academics thought that Welsh Government assistance might be useful in relation to research into and – more generally – the dissemination of Welsh law. Finally, we undertook a more general review of the output of materials on Welsh law. This review included an analysis of submissions to the Justice Commission, and other publicly available documents that we felt were relevant to the issue.

The minor role played by Welsh law at Welsh universities

At present, the teaching of law degrees in Wales, as in England, is highly regulated. In order to be regarded as a “qualifying law degree” – i.e. a degree which automatically allows students to continue to the vocational training phase of their professional training – seven specific subjects must be taught¹¹³. However, and in addition to these core subjects, many universities also deliver optional law modules. For solicitors, the highly regulated nature of law degrees in England and Wales is due to end in 2021, when the Solicitors’ Qualifying Examination – a new “super exam” – becomes the de facto gateway into the English and Welsh profession¹¹⁴. At that point, universities across both countries will be given far greater freedom in terms of the content of their undergraduate law degrees.

Notwithstanding law departments’ current (albeit modest) freedom to offer modules in non-mandatory subjects, we admit to being surprised about the limited extent to which universities in Wales offered Wales-specific law courses. Our research indicates that some Welsh universities did not offer any overtly Welsh law courses at LLB level. For example, Cardiff Metropolitan University’s sole Welsh law course comprises four two-hour evening sessions on Welsh social care law.

¹¹² HESA *Student Records via the Welsh Government*.

¹¹³ The Law Society. *Qualifying with a law degree*.

¹¹⁴ SRA. *SQE to be introduced in autumn 2021*, 8 November 2018.

Even where Welsh universities do offer modules that are distinctively Welsh as part of their undergraduate law degrees, they tend to only comprise a small minority of those on offer. To illustrate just how rare these Welsh law modules are in Wales, below is the sum total of all such courses known to be offered at Welsh universities. We exclude from table 19 below those modules that are delivered through the medium of Welsh but are not otherwise Welsh jurisdiction-specific.

Table 19: the minimal level of teaching Wales-only law at Welsh universities

University	Module	Brief description
Cardiff University	Devolution in Wales	Year two optional module on the LLB
Swansea University	Cyfraith Hywel	Year three, semester one, module: Wales' legal history, from pre-Roman times.
Swansea University	Cymraeg y Gyfraith	Year three, semester two, module: the legal status of the Welsh language in a post-devolution era.

Our interviews with law school representatives indicated that Welsh law tended to feature most heavily in their public / administrative law courses, where the devolution settlement was also discussed. Beyond that, Welsh law teaching was far more likely to be embedded within broader modules, and therefore taught on a comparative basis. For example, Wales-only law might be briefly taught in relation to mental health, housing and land law, youth justice or family law, where it was – at least in part – different from the law of England. Helpfully, our research indicated that Welsh universities were not actively ignoring Welsh law, where it was relevant. But nor was the subject central to the teaching of undergraduate law students.

Of course, it may also be relevant to our analysis of the content of Welsh LLB courses that – as discussed previously in chapter four of our report – Welsh law schools do not generally teach law with the singular aim of supplying the Welsh legal market with locally-educated legal talent. Indeed, one law school representative, interviewed for this report, suggested that barely 10% of those enrolled on one of their law courses would go on to practise law locally. “The idea that students will come to us because we’re Welsh only applies to those students whose first language is Welsh, or want to be taught in Welsh,” this academic continues. “But that is a very small market.”

Might the teaching of Welsh law become more prevalent at Welsh universities, as the volume of Welsh law becomes larger? Perhaps. However, it is worth noting that a 2014 / 2015 survey of lecturers at Welsh law schools – which examined this very point – indicated that resistance to such a development was widespread across all five Welsh law schools surveyed. This study, known as “Mapping Legal Education in Wales 2”, found that “64% of respondents did not plan delivering modules differently as a result of the Welsh Assembly acquiring primary law powers” and that “44% of respondents did not teach devolved subjects either because it would limit the module’s appeal or would adversely affect students’ employability”¹¹⁵.

¹¹⁵ Justice Commission. *Submission to the Justice Commission from Professor Richard Owen (Swansea University)*, 17 June 2018, p7.

These findings chime with the opinions expressed by the majority of Welsh law school representatives we spoke to during our own research into this issue. In essence, the individuals we interviewed were wary of their law courses becoming “too Welsh”, for fear of making them less attractive to students who were not wedded to living and working within the jurisdiction. Having witnessed the very poor take-up of law courses offered through the medium of Welsh – an observation made by several of our law school interviewees – our impression is that Welsh law schools are proceeding on a “once bitten, twice shy” basis, in terms of their willingness to deliver undergraduate law courses that have a distinctively Welsh flavour.

“It’s an interesting balance, because we can’t train lawyers who solely want to work in Wales – or we lose the English dimension. We can’t divorce ourselves from the English students by being too Welsh focused. Similarly, for the Welsh students that want to work elsewhere, they can’t come out with something that’s so Welsh-centric that they’re closing themselves off from future careers in London, Paris, Brussels – or wherever that might be.”

“We recognise that many of our students are from England, or are going to end up working in England, and have a career there. The idea that Welsh-only law courses would be viable is gaga stuff. You’re not going to have enough to make it an attractive programme. Students will just vote with their feet, saying: ‘No, I want to do a more attractive, wider-based, programme’.”

“If we decided to do a Welsh law module, then I don’t know what the take-up would be. We want our course to be relevant across the border. For us, we think that teaching law on a comparative basis is a benefit. When they go into practice, it’ll be second nature for our graduates to think ‘OK, what’s the jurisdiction?’ – and to know the difference between England and Wales.”

In the near future at least, it appears likely that the teaching of Welsh law at Welsh universities will largely remain as a “bolt on” point of comparison with English law, whose teaching is likely to dominate the syllabus.

This current lack of enthusiasm for in-depth Welsh-specific undergraduate law teaching may, we suggest, potentially cause problems for the Welsh legal profession in the future. It suggests that lawyers in Wales will need to actively seek out training in Welsh law, post qualification, rather than being grounded in the subject from the outset of their professional training.

Of course, countless lawyers around the world go on to specialise in legal disciplines they were not taught at undergraduate level, without experiencing major difficulties in doing so. The challenge we identify for the Welsh Government is to ensure that there is a sufficient pool of practitioner-ready materials available for those who later wish to get themselves up to speed with Welsh law subjects. But, at the moment, the amount of such materials appears to be limited. This may amount to an emerging market failure, which the Welsh Government will need to consider how to address.

Ultimately, we suggest it may prove necessary for the Welsh Government to offer support to the Welsh universities to teach Welsh-specific law at postgraduate, practitioner level – and also support the production of practitioner-type materials to support this training. What is more, the extent to which such support is given might need to expand over time, in a manner which mirrors the expansion in the body of Wales-only law. In the absence of such support, Welsh law expertise risks becoming the preserve of dedicated enthusiasts, who are willing and able to self-teach, or larger Welsh law firms that are able to generate their own internal Welsh law knowledge base as part of their wider knowledge management programme. If expertise in Welsh law is largely developed behind closed doors, we wonder how the market for those who might need to dip into Welsh law on an ad hoc basis will be served.

The availability of Welsh law materials

As part of our research into this subject, we asked Welsh law school representatives to identify their peers, who published research into Welsh law. Separately, we also undertook our own research, scouring various public domain sources, including various online bookshops, Google Scholar, and the Welsh Assembly's own online bibliography¹¹⁶.

Positively, we discovered a handful of Welsh law-specific books. These included, for example, Graham Walters' *Welsh Planning Law and Practices* and David C Gardner's *Administrative Law and Administrative Courts in Wales*. However, these publications were few and far between: it was far easier to discover materials on medieval Welsh law than on many areas of contemporary legal practice, which contained Welsh-law specific elements. The reason for these missing materials was simple: they were not being produced by Welsh university law departments.

"We're certainly not producing textbooks on Welsh law. And, as far as I know, almost none have been produced. The textbooks [that cover issues that are devolved] tend to say 'and it's different in Wales' – but they're not really making it clear why it's different in Wales. If you're lucky, you might get two paragraphs."

Our enquiries chime with others who have explored this issue, including Dr Catrin Fflur Huws from Aberystwyth Law School¹¹⁷, former First Legislative Counsel Professor Thomas Glyn Watkin¹¹⁸ and the Law Commission. In a 2016 study, a report by the Law Commission found that an "overwhelming majority of consultees reported experiencing difficulties due to the limited availability of textbooks on the law applicable to Wales"¹¹⁹. However, unlike the Law Commission¹²⁰, we have doubts about whether Welsh higher educational institutions will voluntarily produce books to serve this limited market of their own volition. There is, we feel, a good reason for our pessimism: academics' employment contracts, and also their teaching / research performance metrics, do not tend to encourage the production of such materials.

"In terms of writing specific legal textbooks [about Welsh law], it is obviously a challenge because – self-evidently, it is not economically viable for people to produce them. The problem is that textbooks aimed at practitioners are not Research Excellence Framework-returnable. There are some people, bless them, who are impressively flying the flag, and producing books on Welsh law. But it's not a market that is well-served."

"If the Welsh Government wants to create a library of core Welsh law subjects, they can't do it on the cheap – our performance metrics will not reward us for that kind of activity. If one of my colleagues wants to write a book on Welsh law, I'd say 'Fine – come up with £50,000, so I can replace you for a year'. So if the Welsh Government offered my department money to replace one of my colleagues, I'd be happy to tell that colleague 'go ahead and write that book'."

This lack of academic research materials into Welsh law is, we suggest, potentially problematic, in terms of the future development of the Welsh jurisdiction. Ideally, such materials should be able to educate law students, assist practitioners in their day-to-day lives, and help develop Welsh law-specific jurisprudence. Yet, currently, in-depth materials on Welsh law appear to be rarely produced, and only in relation to a limited range of subjects. We therefore urge the Welsh Government to systematically support the creation of such materials, before formally embarking on a process where Welsh law substantially separates from its English equivalent. The Law.gov.wales website would be one possible home for such content. We note that this website includes a small number of practitioner-friendly commentaries on Welsh law – although we also observe that no new legal content has been added to this website since November 2017.

¹¹⁶ The Welsh Assembly. *The National Assembly for Wales and devolution in Wales: a bibliography*.

¹¹⁷ Justice Commission. *Submission to the Justice Commission from Dr Catrin Huws and Dr Amanda Clare (Aberystwyth University)*, 4 June 2018, p13.

¹¹⁸ Justice Commission. *Submission to the Justice Commission from Professor Glyn Watkins*, 4 June 2018.

¹¹⁹ Law Commission. *Form and Accessibility of the Law Applicable in Wales*, Law Com No 366, p180.

¹²⁰ *Ibid*, p182.

The Welsh public sector's ad hoc reliance on Welsh law expertise

From our discussions with Welsh law school representatives, we are left with the impression that the Welsh Government, the National Assembly for Wales, assembly members, and other relevant stakeholders (collectively “the Welsh public sector”) tend to draw on the expertise of those legal academics who research Welsh law on a largely ad hoc basis. However, our discussions with Welsh law school representatives reveals that this ad hoc-style reliance on Welsh law expertise by the Welsh public sector is a source of annoyance within the senior echelons of Welsh university law departments: bluntly, there is a perception that the Welsh public sector is overburdening individual academics. Indeed, it has been suggested to us that excessive demands on Welsh law academics has directly impacted the ability of some to do the jobs for which they are paid.

We strongly suspect that the current situation – where overburdening is perceived to be occurring – has arisen by accident, because various arms of the Welsh public sector simply did not realise the extent to which they – collectively – were imposing on the time and goodwill of Welsh law specialists. Indeed, in response to an earlier version of our draft, the Welsh Government said that it “did not recognise these comments as representing widespread views, and were unclear if they related to specific circumstances (of which they could not comment without more information) or if this was claimed to be a more general issue.” In response to this feedback, we offer the following observation: from the feedback we have received from senior figures at Welsh law schools, it is both. We have been provided with specific examples of overburdening – which we cannot share further due to privacy issues. We have also heard more generic complaints about the demands made on Welsh law experts’ time. These complaints have been made by various senior law school representatives, who have a good view of the totality of the demands made on the time of their fellow academics by the Welsh public sector collectively.

In order to mitigate against this problem, representatives from several law schools suggested that the Welsh public sector should – collectively – institute a formal programme for drawing on academic expertise. This, it was felt, would mitigate against the perception of overburdening, and allow for a healthier relationship between the Welsh public sector and law school academics to develop. A more formalised – and overtly commercial – relationship between the Welsh public sector and academia would also, it was suggested, facilitate the production of practitioner-friendly Welsh law materials.

“What the Welsh Government could say is: ‘We need your expertise. How about a secondment?’ That’s fine, and some UK Government departments already do it. But free advice won’t work, in terms of workload models. The amount of credit that legal academics can receive for citizenship and engagement is very limited. No matter what the Welsh Government says, our income stream is students and student fees.”

“If the Welsh Government wanted to get someone in to sort out their HR, they’d get a HR expert in. They wouldn’t just go to the business school of a university and say: ‘You’ve got HR experts, we’ll have them’. It just doesn’t work like that.”

“If engagement with the Welsh Government starts to take up genuine time, then some form of formal consultancy arrangement needs to be put in place.”

We believe the comments made by the law school representatives we spoke to are eminently reasonable, and their suggested solutions sensible. For this reason we suggest that – collectively – the Welsh public sector should exhaustively document whose Welsh law academic expertise is currently being drawn on, and for what purpose. This work could be undertaken in association with the university law departments themselves, on the basis that these departments have a sound grasp on the demands being made of them. In the event that it is discovered that undue demands are currently being made, we suggest these demands should be scaled back to a level that is compatible with the academics’ responsibilities to their employer. Where remuneration for services delivered is appropriate, we suggest that it should be paid for by the relevant arm of the Welsh public sector.

Conclusions and recommendations

We suggest that the Welsh Government undertakes a detailed examination of all law courses taught in Wales, in order to understand where matters of devolved law are simply not being taught. This will help identify any particular aspects of Welsh law where a shortage of specialist advisors may occur.

We further suggest that the Welsh Government considers how it can support the production of materials that will allow for the widespread dissemination of Welsh law. If specialist textbooks, and other useful materials, are simply not being produced, we wonder how knowledge and insights into Welsh law will be shared with the Welsh legal profession and wider society. The Law.gov.wales website might be useful starting point for such a dissemination process. This is currently an underutilised resource: no new legal content has been added to this website since November 2017.

On a related point, we urge all arms of the Welsh public sector to appreciate that it is not the job of Welsh law academics to give them free advice. Guidance on Welsh law issues should be bought and paid for by the Welsh public sector on a structured basis, just as it would do for any other form of professional advice.

Chapter thirteen: The impact of Brexit on the Welsh legal profession

During our research for this report, including when we were interviewing legal practice leaders in Wales, there was no clarity as to what form Brexit would take. All options appeared possible, ranging from a no-deal Brexit to a revocation of the Article 50 notice. Unfortunately, the lack of clarity over the Brexit process has continued. As a result of this ongoing uncertainty, it was difficult to gain substantive insights as to the likely impact of Brexit on the legal sector in Wales. Indeed, one of our interviewees was so mystified by the whole Brexit process that they joked that they had “better go and buy a headscarf and crystal ball.”

Although this ongoing lack of clarity over Brexit is extremely unhelpful to the Welsh legal sector, we believe it is useful to highlight specific areas of concern that we did encounter, either via the submissions to the Commission on Justice in Wales, or from own research. We hope that our insights might, at the very least, offer the Welsh Government some indications of where Welsh legal sector support might be required, as the Brexit process continues to unfold.

One area of concern we encountered related to the potential impact of Brexit on the Welsh university sector, especially in relation to law faculties. This concern has two strands. Firstly, there was concern over the potential lack of access to future EU research funding, and the fact that the loss of this funding may not be mitigated by additional UK-specific support¹²¹. Secondly, there were concerns that international students may be deterred from applying to study at UK – and specifically Welsh – universities. The perceived deterrent effect of Brexit was due to a number of factors, including apparent UK hostility to other EU nationals, changes to the immigration regime for EU students, changes to the tuition fees payable by EU students, and the future recognition – or otherwise – of UK degrees or qualifications in other EU jurisdictions. A recent survey of 336 students at Welsh universities found that 84.2% believed that post-Brexit Wales would become a less attractive place for EU students to come and study law. Additionally, 81.6% believed that Wales would become a less attractive place for EU lecturers to teach and research law¹²².

Raising similar concerns, one of our legal practice interviewees wondered about the likely future immigration status of their – highly international – workforce. Additionally, this practitioner, along with several others, also expressed disquiet about the perceived drag on the UK economy that continued Brexit confusion was causing:

“Our business is very much focused on commercial work – corporate, commercial, property transactions. If the investment isn't there, and those transactions don't happen, then we won't have any legal work to do.”

“What we are seeing is a constipation of activity by our clients, because they just don't know what's around the corner. That is going to impact on activity.”

“We've been making sure we've got plenty of available liquidity, so that we've got the facilities in place. This means that, if there is a downturn, we can weather the storm.”

Indeed, some legal practice leaders we so concerned that Brexit uncertainty was contributing to a drop in new instructions that they were now starting to consider making redundancies.

“We're looking at what our most vulnerable areas are – in particular, residential conveyancing. That's what we're most concerned about. We've already started having the conversations around when we start letting staff go, and what criteria to use, in order to cut cost quickly.”

¹²¹ Justice Commission. *Submission to the Justice Commission from Bangor Law School Public Law Research Group*, 14 June 2018, p26.

¹²² As above, p27.

That said, several interviewees also noted that Brexit was generating legal work, on issues covering everything from employment law to corporate restructurings. Whether this extra work should be regarded as a good thing was largely a matter of perception. One private practice interviewee, for example, observed how their firm's lawyers were now picking up extra work advising on matters relating to migrant workers and international visas. By contrast, one in-house lawyer outlined – with obvious annoyance – the sheer scale of their employers' expenditure on lawyers and other professionals, in order to ensure their business could continue to trade within the EU post-Brexit.

Conclusions and recommendations

In light of the continued uncertainty over Brexit, its impact on the Welsh legal profession remains unclear. Moreover, in light of the – now further delayed – Brexit deadline, this uncertainty looks set to continue into the near future.

On the current timeframe, the next Brexit deadline is at the end of October 2019. This, we suggest, offers a window for the Welsh Government to identify areas of the Welsh legal market that are at particular risk, with a view to formulating action plan(s) that seek to mitigate against those risks.

Brexit is an ethereal concept. However, its impact within the Welsh legal sector is likely to be highly specific – and so, we believe, should be the Welsh Government's response to it. For example, using data known to be gathered by HESA, we suggest that the Welsh Government might wish to actively monitor law school enrolments. The aim of such a proactive monitoring exercise would be to discover if there is a noticeable deterioration in take-up of law courses at Welsh universities by EU citizens, compared with previous years. This approach, we suggest, would give the Welsh Government advance warning of any risk to the financial viability of Welsh law schools.

Similarly, in light of the Welsh legal sector's heavy reliance on residential conveyancing in particular, we also suggest that the Welsh Government may wish to identify – and make enquiries regarding the financial health of – Welsh law firms that are particularly focused on this type of work. Helpfully, it is now possible to identify law firms that are heavily exposed to the residential conveyancing market, thanks to an open data initiative by HM Land Registry¹²³. At the very least, this form of proactive engagement might give the Welsh Government advanced notice of where significant job losses in the Welsh legal sector may occur, and where assistance with retraining / redeployments might be needed.

¹²³ <https://www.gov.uk/government/news/march-2019-transaction-data>.

Chapter fourteen: Support for the legal services sector in the UK and elsewhere

In this chapter, we highlight how various stakeholders, in the UK and abroad, have attempted to proactively grow their legal markets. We do not suggest that the Welsh Government should blindly seek to replicate all of these specific examples within Wales. However, we believe these examples illustrate the “art of the possible”, in terms of expanding a market for legal services.

Part one – the rise of the nearshored legal service centre

In recent years, there has been a noticeable trend by large law firms globally to open dedicated service centres (SCs) in “nearshore” locations. Today, several UK cities now play host to such SCs, including Birmingham, Leeds, Liverpool, Manchester, Newcastle-Upon-Tyne, and – notably – Belfast.

In many cases, law firms who open SCs are entering that location for the first time. As a result, an SC opening often represents a significant new law-related employment opportunity in that location. In tables 20 and 21 below, we attempt to quantify the number of jobs that now exist in UK-based legal practice SCs. Even with incomplete data, we note that these various SC operations now collectively support approximately 3,000 roles. Indeed, in multiple examples mentioned in table 21, the number of roles now supported at individual SCs exceed those envisioned at launch by several hundred people. For this reason, we believe that the Welsh Government should actively encourage the establishment of future law firm SCs in Wales. Not only do such centres have high growth potential in terms of jobs envisioned, there are numerous tangible examples of such centres repeatedly exceeding initial employment expectations within a relatively short period of time.

Many law firms’ SCs initially launched with the main aim of delivering low-cost centralised “back office” support for law firms, covering functions such as accounts, HR, IT, and marketing. To a large extent, this remains one of their core functions at many law firm SCs. We do not, however, believe that the back-office support focus of many SCs should be regarded as an inherently negative characteristic. This is because we believe that jobs in legal sector accounts support, HR, IT and marketing are valid careers in their own right. Indeed, with such roles currently being heavily concentrated in London, it is arguably desirable that Welsh residents who might be interested in such careers should have the opportunity to fulfil their career aspirations within the country. Undoubtedly, some of these employment opportunities are already available to employees of Wales-based legal practices. However, the arrival of one or more SCs in Wales is likely to create employment opportunities of a different order of magnitude compared with those offered by local Welsh market participants.

In terms of salaries typically paid at SCs, it has been difficult, in the time allocated to produce this report, to obtain robust data – not least because most law firm vacancies that are advertised in relation to such centres do not disclose their salaries. What is strongly suspected, however, is that SC roles – even non-legal roles – typically pay wages that are above the local average. For example, while the average full-time salary in Northern Ireland – a legal sector nearshoring hotspot – was £27,006 in 2018¹²⁴, recent salary research conducted by local Belfast recruiter Abacus suggests that mid-level marketing positions offered an average salary of £31,483 (rising to £44,033). Similarly, average basic salaries for IT software professionals in Northern Ireland were £29,319 (rising to £45,725 for senior positions). Assuming that law firm personnel who undertake these types of roles at Belfast-based law SCs are likely to be paid comparable salaries, Abacus’ data suggests that these roles are likely to command a small, but noticeable, premium over average Northern Irish wages.

¹²⁴ Northern Ireland Statistics and Research Agency. *Median headline earnings 1997 to 2018*, 25 October 2018.

Indeed, statements made by two LegalTech providers, both of which have recently been established, or expanded, in Northern Ireland, indicate that earning potential in their Belfast offices might be even higher than the Abacas figures indicate. When iManage announced (in 2016) that it was opening a new Belfast office, it was stated that the 18 roles created would yield £680,000 in salaries per year – equivalent to around £37,777 per role¹²⁵. More recently, when legal software solutions vendor Repstor announced (in 2018) a headcount expansion, it confirmed that the average salary of its new recruits was £40,000¹²⁶ (in 2018). In light of this public domain salary data, we believe that – even when a law firm nearshore SC has a strong “non-legal” component, this does not mean that such centres should be regarded as low-wage employers. For that reason, we believe that SCs can make a positive overall contribution to a location’s ability to function as a high wage economy.

Turning now to legal sector roles: it is worth noting that, in the early phase of their existence, the legal roles available in SC offices overwhelmingly tended to be junior, paralegal-type, positions. In all likelihood, this situation continues today. However, even when this type of work is undertaken at a law firm SC, the modest data we have been able to collect suggests that the salaries paid in such centres will be higher than the local market norm. In other words, the arrival of a law firm SC can help drive up local salaries for what has, historically, been relatively low-paid work.

Returning to our Northern Ireland example once again: Abacas’ survey data suggests that the average salaries paid to those undertaking paralegal work in this locality is £20,254. Yet, when Fieldfisher recently announced it was opening a Belfast support office to undertake “document negotiation” and legal support – i.e. paralegal work – it was stated that the salaries paid at the 125-person office would average “in the mid £20,000s”¹²⁷, almost £4,000 per year more than Abacas’ suggested local average. Similarly, as far back as 2010, at the time of the (then) Herbert Smith Belfast launch, it was stated that the 26 roles created would generate an annual salary income of £650,000 – equivalent to £25,000¹²⁸ per role. Even more positively, when (in 2015) alternative legal service provider Axiom announced it was creating 97 new jobs in Belfast, it was claimed that these roles would pay “salaries well above the Northern Ireland private sector median, contributing an additional £3.9 million every year to the local economy”¹²⁹. On a salary per role basis, we estimate that Axiom salary rates for these new positions were (in 2015) in the region of £40,206.

In light of the above-mentioned examples we therefore believe that, even with a significant focus on paralegal / junior level legal work being undertaken at legal practices’ SCs, this can make a positive impact on the local economy. This positive impact comes from both increasing the total number of roles available locally, and also by raising average wages paid for this type of work.

Moreover, today, the legal operations side of law firm SCs has expanded beyond simply focusing on paralegal opportunities. Recently, some have begun to offer fully-fledged training contracts, thereby providing a path to solicitor qualification¹³⁰. Additionally, it is no longer uncommon for SCs to employ lawyers who have several years’ post qualification experience – up to and including department heads. Firms that have recently (and actively) sought to recruit qualified solicitors to their nearshore SC operations include Addleshaw Goddard, Baker McKenzie, Clifford Chance, Freshfields, Herbert Smith Freehills, Lewis Silkin and Taylor Wessing.

¹²⁵ Invest NI. *US Software Engineering Firm Opens New Centre in Belfast*, 2 June 2016.

¹²⁶ Invest NI. *Belfast software firm, Repstor creates jobs to drive growth*, 11 May 2018.

¹²⁷ Invest NI. *Top 25 law firm Fieldfisher expands into Northern Ireland with 125 new jobs*, 18 August 2018.

¹²⁸ Invest NI. *Leading international law firm established base in Belfast*, 24 November 2010.

¹²⁹ Invest NI. *Axiom announced 97 new jobs in Belfast*, 21 April 2015.

¹³⁰ The Lawyer. *Baker & McKenzie offers first Belfast training contracts, 27 October 2016. The Lawyer. Allen & Overy launches Belfast training contract*, 4 February 2019.

Finally, in terms of the law-related roles offered at law firms' SC offices, there appears to be a growing tendency for such offices to play an important role in the emergence of novel, technology-assisted, legal jobs. In other words, SCs are likely to play host to precisely the sort of roles that are less likely to be adversely affected by the much-hyped deployment of AI within the legal service sector. Examples of new-style legal roles, recently advertised in law firms' UK-based SC offices, include:

- Legal technology solutions analyst – Allen & Overy
- Marketing technology assistant – Allen & Overy
- Legal project executive – Allen & Overy
- Senior project manager (new service delivery model) – Ashurst
- Accounting analyst – Baker McKenzie
- People capacity manager – Freshfields

The emergence of legal practice SCs as a focal point for legal practice innovation also appears to be impacting the nature of law courses offered by universities that are local to those SCs. Recently announced, innovation-focused, law courses – which have been launched at universities in close proximity to law firm SCs – include Ulster University's LLM, "Legal Technology: Information and Informatics" and Manchester University's "LegalTech and Access to Justice" module.

Assuming such courses gain traction among their universities' students, this would appear to indicate a virtuous circle of legal sector employment, in locations where SCs operate. That is: law firms are now actively hiring candidates to undertake LegalTech-focused work and, at the same time, local universities are starting to supply suitably qualified graduates to fill these positions.

In light of all of these observations, we therefore respectfully disagree with those commentators who have suggested that nearshore service centres operated by London-based law firms do not create the type of quality legal jobs that Wales would ideally want to attract. In fact, we take the opposite view. We believe that, by actively supporting the establishment of legal practice SCs in Wales, the Welsh Government should be able to make considerable progress in delivering on at least two of the objectives set out in its Economic Action Plan:

- Facilitating high quality employment, skills development and fair work
- Particularly with reference to LegalTech, enabling Wales to become a centre for (legal sector) innovation and entrepreneurship

Case history: Belfast

As previously indicated, the UK location that has benefitted most significantly from the legal practice SC phenomenon is Belfast. As recently as the beginning of the 2010s, the Belfast legal market was small, and dominated by SME legal practices. Few international law firms had any direct presence in the city. Indeed, the Belfast market in 2010 arguably mirrors elements of Cardiff's legal market today. However, unlike Cardiff, thanks to the emergence of nearshore SCs, Belfast now plays host to several of the world's largest and most prosperous law firms: Allen & Overy, Baker McKenzie and Herbert Smith Freehills. Further details of law firms, and LegalTech services providers, who have established support offices in Belfast, can be found in table 20 below.

Table 20: law firms / law-related organisations establishing or expanding in Northern Ireland

Organisation	Event	Year	Support given (if applicable)	Job numbers anticipated	Investment per job created	Comments
Allen & Overy	Belfast office announced	2011	£2,500,000	300	£8,333	Office headcount reached 588 by 2019
	Extra jobs and training support	2014	£860,000	100	£8,600	
Axiom	Belfast office launched	2012	£1,600,00	102	£15,686	Company exceeded recruitment targets and is now based in a 350-person capacity office
	Expansion announced	2015	£727,500	97	£7,500	
	Relocation and expansion	2017	£727,500	167	£4,356	
Baker McKenzie	Belfast office announced	2014	£1,280,000	256	£5,000	Office headcount reached around 300 by 2018
	Additional office space	2018	N/a	N/a	N/a	Additional space will take Belfast headcount capacity to 450
Fieldfisher	Belfast support office launched	2018	£630,000	125	£5,040	Belfast support office is separate to firm's existing NI alliance.
Herbert Smith Freehills	Belfast office launched	2011	£208,000	26	£8,000	Office headcount had reached 350 by 2018
	Belfast office expansion	2011	£526,000	61	£8,622	
iManage	Belfast office launched	2016	£90,000	18	£5,000	iManage is a US-based professional services software company
Repstor	New roles and marketing support	2018	£80,850	6	£13,475	Repstor is a software company active in the legal market
Shoosmiths	New support team	2018	£52,000	13	£4,000	Team will provide firm-wide support
SmithDehn	Londonderry office announced	2015	£42,000	6	£7,000	Firm also received £8,000 in marketing assistance

In part, it is likely that the success of Northern Ireland in attracting substantial legal sector nearshoring investment can be explained by a long-standing and relentless marketing campaign, undertaken by Invest NI, Northern Ireland's regional business development agency. Having submitted a freedom of information request in relation to Invest NI's legal sector marketing activities, we can confirm that, since 2011, this organisation has advertised in at least 38 legal trade sector publications, including those produced by the American Bar Association, the Global Legal Post, the International Bar Association (IBA), the International Legal Technology Association (ILTA), *Legal Business*, *The Lawyer*, and *Legal Week*. Invest NI has also sponsored / attended at least 15 major international "business of law" conferences and events. These include IBA meetings in Tokyo, Vienna, Washington DC and London, ILTA meetings in London, Washington, Las Vegas and New York, the Annual Corporate Legal Operations Institute in Las Vegas, the Law Tech Exhibition in San Francisco, and events in London organised by both the London Lawyers Business Development Club and the *Legal 500*.

By way of comparison, we are aware of just two events sponsored by the Welsh Government in recent years that lawyers like to attend: MIPIM in London and Cannes. It should be noted that MIPIM is primarily focused on the property sector rather than the legal sector. Although many specialist property lawyers attend MIPIM, few law firm leaders do. Instead, law firm leaders are more likely to attend the type of events that have previously been sponsored by Invest NI.

Furthermore, some of Northern Ireland's promotional activities have notably been led by Northern Ireland First Minister, the Right Honourable Arlene Foster – thus demonstrating top level political commitment to promoting the legal sector internationally by the Northern Irish Government. To the best of our knowledge, the Welsh Government has not undertaken an equivalent amount of "top level" promotional activities, focused on attracting law firms to establish SCs in the country.

Relentless profile-raising by Invest NI undoubtedly played an important role in the initial development of Belfast as a legal practice SC nearshoring venue of choice. However, we have some doubts about whether the Welsh Government would need to undertake an equivalently aggressive and expensive marketing campaign, should it decide to actively promote Cardiff as a potential location for nearshore legal practice SCs. We say this for two main reasons:

Firstly, at the time that Invest NI first began to promote Belfast as an SC location, the very concept of legal practice nearshoring and standalone service centres was still in its infancy. Several years later, the concept is now far better understood, and tangible examples abound. There is, therefore, less need to promote the very concept of legal practice nearshoring in its own right.

Secondly, from our discussions with those involved in past law firm nearshoring decisions – whose views we have actively sought – it is clear that (for some, at least) Cardiff had been actively considered as a potential nearshoring venue. Ultimately, as previously discussed in chapter six of this report, the decision not to locate a nearshore SC in Cardiff was not made because Cardiff failed to be considered in the first place. Rather, decisions were influenced by other factors, which Welsh Government marketing spend alone would not have been able to counterbalance.

Moreover, having compared the timescale of the marketing initiatives undertaken by Invest NI by reference to new Belfast SC openings, it appears that a substantial proportion of these marketing activities occurred after the main participants had already been established. Almost certainly this was because – as we will now illustrate – a perception has taken hold among key SC decision-makers that the Belfast market has now become too crowded to remain an SC investment location of choice.

“We ruled out Northern Ireland on the basis of political uncertainty in relation to Brexit, but also due to travel considerations and congestion with a number of firms there. We were looking at places that were largely not already used by large law firms for their nearshoring.”

“Looking at the stats, such as real estate, Northern Ireland would have been best for us. But we felt that, in the professional services sector, the rates have been pushed up massively. There’s a real talent war for the best people. As a location [for law firm nearshoring] it’s done.”

“If I was advising someone [on where to nearshore], I would say ‘stay away from Northern Ireland’ these days.”

Collectively, these comments suggest that smaller UK legal markets, such as Belfast, only have limited capacity to sustain multiple SCs. When that saturation point is reached, those involved in nearshoring decisions will instead switch their search for alternative locations. Currently, Belfast appears to be on the brink of reaching this saturation point. Clearly, Cardiff has not. Therefore, its potential as a base for one or more significant law firm SCs remains strong.

Legal practice nearshoring elsewhere in the UK

The perception that Belfast has fallen out of favour as the legal practice SC venue of choice is further illustrated by table 21 below. Especially since 2014, when Allen & Overy, Herbert Smith Freehills, Baker McKenzie and Axiom were all established in Belfast, several large international legal practices have chosen to establish their own SCs in alternative UK locations.

Table 21: law firm nearshore UK operations – other than Belfast

Firm name	Location (s)	Year announce / opened	Approx. headcount	Employs / seeking qualified lawyers?
Addleshaw Goddard	TST support team spread across four offices	2010	175	Yes
Lewis Silkin	Cardiff	2012	43	Yes
Ashurst	Glasgow	2013	350	Yes
Bryan Cave Leighton Paisner	Manchester (ICSM office)	2014	Refused to declare	Refused to declare
Hogan Lovells	Birmingham	2014	55	Yes
Freshfields	Manchester	2015	800	Yes
Latham & Watkins	Manchester	2015	Refused to declare	Yes
Norton Rose Fulbright	Newcastle	2016	140 (planned)	Yes
Clifford Chance	Newcastle	2018	60	Yes
Reed Smith	Leeds	2018	30	Refused to declare
Taylor Wessing	Liverpool	2018	25	Yes

In recent years, Manchester has emerged as a key SC alternative to Belfast, and now plays host to four such centres, including the core of Addleshaw Goddard's Transaction Support Team (TST). It is therefore arguable that Manchester, too, may soon reach saturation point, in terms of the city's capacity to absorb any more law firm SCs. Already a major legal sector in its own right, Freshfields' ambition to employ 800 persons locally¹³¹ is likely to add further competitive pressures to the crowded Manchester legal market.

The more recent popularity of Newcastle appears to be mainly strategic, in the case of Norton Rose Fulbright¹³², and largely opportunistic, in the case of Clifford Chance. The kernel of Clifford Chance's Newcastle operations was Carillion's paralegal and commodity managed legal services arm¹³³. This team was acquired by Clifford Chance after Carillion's parent company went into liquidation. Clifford Chance's opportunistic expansion into Newcastle is not, of course, a development that the Welsh Government could have influenced, in terms of making Cardiff an attractive alternative SC investment option for this firm. But, from a Welsh perspective, perhaps the best way to view the Clifford Chance / Carillion tie-up is that it pushes the Newcastle nearshore legal market closer towards SC saturation point, like Belfast and (possibly) Manchester before it. Almost by default, the attractiveness of Cardiff as a possible SC will increase due to the Clifford Chance / Carillion combination.

Part two: how Singapore has proactively sought to be a global legal market leader - twice

Certain aspects of the Singaporean legal sector make it an unlikely candidate to become a legal international hub. The country is famously restrictive in relation to the number of foreign law firms it permits to advise on local Singaporean law within its borders: just nine are currently permitted to do so. Additionally, these firms' rights to operate in Singapore are subject to periodic reapproval¹³⁴.

Yet, despite this significant legal market access restriction, Singapore has – in recent years – emerged as a major global venue for international arbitration. The country is now home to one of the world's "big three" international arbitration centres¹³⁵, the Singapore International Arbitration Centre (SIAC). Notably, SIAC was only founded in 1991¹³⁶ – far more recently than its two closest competitors – Paris' International Chamber of Commerce (founded in 1923)¹³⁷ and the organisation that now trades as the London Court of International Arbitration (originally founded in 1891)¹³⁸. Like our previous case history example of Belfast, the success of SIAC demonstrates how it is possible for a location to quickly establish a market-leading reputation for a specific type of legal services.

In terms of workload, SIAC's 2018 annual report¹³⁹ observes that a total of 402 new cases were received. Although not large in number, these disputes tend to be high in value: SGD 7.06 billion of new claims were filed in 2018 – roughly equivalent to £5.44 billion. On an average basis, this suggests that each arbitration handled by SIAC was worth around SGD 17.56 million / £13.43 million¹⁴⁰. Clearly, the type of disputes handled by SIAC are therefore at the higher end of the disputes market. High value disputes are, of course, one of the most lucrative types of work for lawyers.

¹³¹ The Lawyer. *Freshfields nears 800-strong Manchester target with new fit out*, 13 March 2018.

¹³² Chronical Live. *Norton Rose Fulbright doubles North East Presence after successful first year*, 11 November 2018.

¹³³ Clifford Chance. *Clifford Chance acquires CAS in Newcastle*, 14 February 2018.

¹³⁴ Ministry of Law. *Updates on qualifying foreign law practices licences renewed in 2014*, 18 December 2018.

¹³⁵ Queen Mary University / White & Case. *2018 International arbitration survey: the evolution of international arbitration*, p9.

¹³⁶ <http://siac.org.sg/2014-11-03-13-33-43/about-us>.

¹³⁷ <https://iccwbo.org/about-us/who-we-are/history/>.

¹³⁸ <https://www.lcia.org/LCIA/history.aspx>.

¹³⁹ SIAC. *Where the world arbitrates*. Annual Report 2018.

¹⁴⁰ Judiciary of England and Wales. *Business and Property Courts: the Commercial Court Report 2017 – 2018 (Including the Admiralty Court Report)*, P11.

The disputes handled by SIAC were also highly international in their nature: just 16% were domestic cases, compared with 84% that were international. In 2018, some of the most popular “home states” for new parties included the Cayman Islands, the US, Switzerland and the United Arab Emirates. While just over half of the cases filed with SIAC in 2018 were governed by Singaporean law, a substantial number were not – including 18% governed by English law. Effectively, what this data shows is that SIAC has been able to grow a market for high value legal work – i.e. arbitration – that is clearly rooted in a specific location, while also not being wholly dependent on the state of the economy in that location for its success. Here, an analogy can be drawn with the Welsh legal education system, whose overall health is significantly dependent on the global marketplace, rather than local supply – and is arguably the more robust for it.

Unfortunately, in the time available to undertake this rapid review, we have not been able to quantify the amount of work that institutions such as SIAC generate for the Singaporean legal market. Nevertheless, it may be useful to point out that, while the total number of lawyers registered as working in Singapore is 5,336¹⁴¹, in excess of 1,000 Singaporean lawyers have officially specified that they have competency in arbitration work¹⁴². At a more qualitative level, dozens of lawyers – from a large number of domestic and international legal practices – are ranked for their arbitration expertise in Singapore, in both the *Chambers & Partners* and the *Legal 500* directories. One is therefore left with the distinct impression that the existence – and success – of SIAC has allowed a large number of Singapore-based practitioners to carve out a successful career for themselves in relation to this legal specialism.

SIAC is an independent, not-for-profit organisation, rather than a state entity. However, over the years, the Singaporean state has initiated various measures that have contributed to SIACs’ success. These measures include:

- Signing up to, on 21 August 1986, the 1958 New York Convention¹⁴³. Becoming part of this convention enables Singaporean arbitration awards to be enforced in 150 countries
- Introducing legislation that enables third party funding for international commercial arbitration in Singapore¹⁴⁴
- Supporting the establishment, and later the refurbishment of, Maxwell Chambers – an important venue for SIAC hearings¹⁴⁵
- Allowing foreign law firms to advise on, and engage in, arbitration proceedings¹⁴⁶
- Ensuring that non-resident lawyers are not required to obtain work permits in order carry out arbitration services in the country¹⁴⁷

What this brief example illustrates is how a variety of actors – state and non-state alike – can collectively facilitate the establishment a highly profitable legal specialism within a given location. Helpfully, while this development supports the creation and expansion of a legal ecosystem within that location, the success of that ecosystem is not wholly dependent on the vagaries of the local legal market in which it is based. Instead, much of the ecosystem’s success – and workload – comes from a diverse international client base. This, we suggest, is a robust and sustainable approach to growing a legal marketplace.

¹⁴¹ The Law Society of Singapore. *General Statistics as of 31 August 2018*.

¹⁴² www.mlaw.gov.sg/eservices/lra/search-lawyer-or-law-firm/.

¹⁴³ New York Arbitration Convention. *Contracting states*.

¹⁴⁴ Ministry of Law Singapore: *Public consultation to seek feedback on the third-party funding framework*.

¹⁴⁵ Keynote address by MS Indranee Rajah S.C., senior minister of state, Ministry of Law and Finance, at the ground-breaking of 28 Maxwell Road on 22 June 2017 at Maxwell Chambers.

¹⁴⁶ SIAC. *Arbitration in Singapore*.

¹⁴⁷ SAIC. *Our rules – rule 37*.

Another market in which Singapore has attempted to carve out a niche for itself as a global centre of excellence is LegalTech. To that end, the Singapore Academy of Law (SAL) – the country’s agency tasked with developing Singapore as a legal services hub – has set out a wide-ranging five-year legal technology “vision”¹⁴⁸. Among the ideas included in this vision are the creation of an open database of contract templates and precedents, plans to embed LegalTech within modules taken at law schools, and the encouragement of co-working places for lawyers and LegalTech startups. Helpfully, the authors of this vision include high-level stakeholders within the Singaporean legal community, including Supreme Court Justices, Ministry of Law representatives, law schools and private practitioners.

- The Future of Law Innovation Programme (FLIP) – an “industry-wide initiative to drive innovation and encourage the adoption and invention of new technology among law firms, legal departments and legal tech startups to create a vibrant legal technology ecosystem in Singapore”¹⁴⁹ FLIP events include monthly legal talks on legal practice innovation, twice monthly demonstrations of LegalTech, monthly small-group workshops, and ad hoc events such as tech festivals and pitching competitions
- A Ministry of Justice-backed SNG 2.8 million “Tech Start for Law” programme, aimed at supporting Singaporean legal practices to improve their productivity via technology. The fund provided up to 70% of the first-year costs of adopting technology products relating to practice management, online research and online marketing¹⁵⁰
- A Law Society of Singapore-backed “SmartLaw” accreditation scheme for legal practices who have adopted certain legal technologies. As of 31 October 2018, 45 Singapore-based practices have received this accreditation¹⁵¹
- A low-cost scheme, which allows SME law firms to pay a consultant to help them re-engineer their workflow. The aim of the scheme is to enable these firms to adopt new technology, and therefore operate more effectively and efficiently¹⁵²
- The creation of a LegalTech startup accelerator, which is due to offer mentoring support, advice on the local market, and advice on business strategy and management¹⁵³

Within the private practice community, there are also signs that some forward-thinking legal practices have begun to regard Singapore as a go-to location for experimenting with practice innovation. For example, global law firm Clifford Chance recently launched a Singapore-based innovation lab, known as Create+65. The aim of Create+65, according to the firm, is an “initiative to identify, incubate, test and pilot new legal technology solutions to enhance the firm’s, and the wider industry’s, service offering to clients”. Clifford Chance’s innovation lab, which is also supported by FLIP, SAL and the Singapore Economic Development Board, will additionally form part of the firm’s innovation and best delivery hub for the Asia Pacific region¹⁵⁴. Finally, and very recently, EY, one of the world’s Big Four professional services advisory firms, announced it was creating its own Singapore-based incubator programme, known as EY Foundry. This programme will see five startups – from across the legaltech, tax, accounting, fintech and regtech sectors – supported with six months’ free residency at EY’s offices, together with \$88,000 worth of Microsoft Azure credits¹⁵⁵.

¹⁴⁸ Singapore Academy of Law. *Legal technology vision. Towards the digital transformation of the legal sector.*

¹⁴⁹ Future of Law Innovation Programme 2019 Info pack.

¹⁵⁰ Gov.sg. *\$2.8m Tech Start Programme to Help Singapore Law Practices Adopt Technology*, 27 February 2017.

¹⁵¹ The Law Society of Singapore. *SmartLaw*.

¹⁵² FLIP. *A year on, Singapore Academy of Law’s FLIP continues to drive legal innovation*, 1 February 2019.

¹⁵³ See above.

¹⁵⁴ Clifford Chance. *Clifford Chance launches its first innovation lab, Create+65*, 18 December 2018.

¹⁵⁵ Asian Legal Business. *EY launches incubator in SG for startups in legaltech, tax and more*, 25 April 2019.

Taken in the round, the scale of Singapore's efforts to embrace legal innovation and LegalTech is impressive. Essentially, it offers a "something for everyone" approach to improving the sector's performance – from SME legal practices looking to install basic LegalTech to cutting edge solutions being supported by the world's largest law firms. Crucially, the initiative enjoys the support of many of the key figures across the legal sector, from Supreme Court Justices to law students. It will be fascinating to see if Singapore is able to quickly establish itself as a world leader in relation to LegalTech, just as it has done in relation to international arbitration.

Conclusions and recommendations

First and foremost, we suggest that the Welsh Government should recognise that law firm SC nearshore jobs are a desirable source of employment for the country: such roles are often relatively well paid, whether by reference to local market conditions or task-specific market norms. They also increasingly offer highly skilled work, both in terms of support personnel and legal services. Finally, the tendency for law firms' nearshore SCs to become centres of innovation also suggests a degree of future proofing, in terms of the long-term viability for the roles undertaken at such centres. The increasing interaction between the LegalTech roles undertaken at law firm SCs and innovative courses offered by local universities also indicates a virtuous circle of local training opportunities, which lead to closely-related – and local – employment opportunities. At present, Wales has a clear LegalTech academic champion: Swansea University. What Wales appears to lack is a local source of employment for this pipeline of talent.

We do not suggest that the Welsh Government follows Invest NI's approach of large-scale, unrelenting marketing activities which, in recent years, have shown rapidly diminishing returns. What we do, however, strongly urge the Welsh Government to actively support – at the highest political level – a highly-targeted campaign to attract new legal practice nearshorers to Wales. This campaign should target any type of large practice that does not yet operate its own SC, including both traditional law firms and also major accountancy practices that operate significant legal practice divisions.

We are not suggesting that the Welsh Government attempts to create a rival to Singapore, either as a centre of international arbitration or, indeed, as a LegalTech hub. What our examples do, however, illustrate is how a sustained effort to grow a legal market can sometimes result in a location quickly gaining a reputation as a world market leader. Our suggested focal point for future Welsh Government legal sector support would be to promote Cardiff as a nearshoring centre for multidisciplinary legal and accountancy services.

Chapter fifteen: Potential new business models for providing legal services, including the impact of technology

In this chapter, we outline what we regard as examples of both innovative legal practices and notable legal technology (LegalTech) companies operating in Wales. Some, but not all, of these organisations are significant employers in Wales. Equally some, but not all, are among the largest law-related services providers in Wales, when evaluated on an annual turnover basis.

In offering our illustrative examples, we make an important preliminary point: we have actively decided against using a legal practice's "alternative business structure" (ABS) status as a proxy indicator for innovation. When the legal services market in England and Wales was substantially liberalised in 2007, it was widely assumed that ABSs would become a catalyst for allowing legal services to be delivered in new ways, because they allowed "non-lawyers" to become shareholders in legal practices for the first time. In fact, this reform has since proved to have been something of an anti-climax: rather than resulting in a blossoming of "Tesco Law"-type services, it has more commonly resulted in a "non-lawyer financial director becoming a partner in an entirely traditional law firm"-type scenario. Perhaps this outcome should not be a surprise: research suggests that around 80% of ABSs are pre-existing legal practices, as opposed to new market entrants¹⁵⁶.

However, for the sake of completeness, we note that data provided by the SRA informs us that Wales is home to 25 ABS firms, compared with 750 in England. To put these ABS totals in context, Wales is host to a total of 391 law firms based in the country, compared with 10,110 based in England. This suggests that the ABS to law firm ratio is slightly lower in Wales than in England. In Wales, one in every 15.64 law firms is also an ABS, compared with one law firm in every 13.48 law firms in England.

Alternative legal service providers

The examples we offer below are not intended to be an exhaustive account of alternative legal services provision in Wales. Rather, they are intended to be demonstrative, and reflect the diversity of ways in which Wales-based legal practices are breaking the mould in relation to the way they deliver legal services. When deciding whether a Welsh legal practice's business model might be considered new or innovative, the point of comparison is the stereotypical, traditional, law firm.

That is, a legal practice which:

- Is a generalist legal practice
- Is exclusively owned by its lawyer shareholder partners
- Only offers legal advice, rather than other forms of advisory services

¹⁵⁶ Legal Services Board. *Evaluation: ABS and investment in legal services 2011/12-2016/17*, June 2017, p16.

The examples below are presented alphabetically.

Admiral Law

We previously discussed Admiral Law in chapter three of this report. Here, we merely reiterate that this company is a significant, if unconventional, employer within the Welsh legal sector. In 2017, Admiral Law achieved a turnover of £18.44m, according to its latest Companies House filing.

Carbon Law

Carbon Law is one of a growing number of legal practices where a central team provide a “platform” of centralised support for its lawyers, who then work on a largely autonomous and / or freelance basis¹⁵⁷. Other operators in this market include the Guildford-based Setfords Solicitors, the Vario service provided by Pinsent Masons, Lawyers on Demand and the AIM-listed Keystone Law Group. These types of services are known to be attractive to lawyers who desire the benefits of centralised back office support, but who do not want to work in a traditional law firm.

In 2015, Carbon Law received a £325,000 grant from the Welsh Government to support its relocation from its initial base in Cowbridge to a new office in central Cardiff. More recently, Carbon Law became an ABS¹⁵⁸ and also announced its intention to move towards a “stakeholder ownership” structure. Unlike traditional law firms, where practice ownership tends to be reserved for the practice’s senior lawyers, Carbon Law has confirmed that its central management and support team will become eligible for shares in the company¹⁵⁹.

CJCH Solicitors

Formed by a merger between Colin Jones Solicitors and Clarke & Hartland Solicitors in 2013, this – formerly traditional – law firm now also offers a wide range of consultancy, in addition to legal, services. CJCH’s consulting services include anti-piracy research, business and risk consulting, enforcement and licence compliance, cyber protection and IT security¹⁶⁰. It is understood that the firm’s 130-strong headcount is split approximately 50:50 between those working for its traditional legal practice and those working for its consultancy business.

In March 2017, it was announced that the Welsh Government had given CJCH a £432,000 grant to create 71 new jobs within its anti-piracy unit¹⁶¹.

NewLaw Solicitors

Since 2014, NewLaw Solicitors has been part of Redde plc, a £527m-turnover company which focuses on accident management support, legal services, fleet management and policy fulfilment services. Redde’s total workforce comprises 2,300 employees nationwide¹⁶², while Cardiff-based NewLaw employs in excess of 500 staff¹⁶³. According to its latest Companies House return, NewLaw turned over £22.01m in 2017¹⁶⁴.

NewLaw is known for its extensive number of joint venture partnerships, including those with insurer Ageas, the British Medical Association, the Royal College of Nursing and You Law LLP¹⁶⁵.

In October 2013, prior to its acquisition by Redde, the Welsh Government gave NewLaw a grant of £156,690, to assist with the creation of 86 new jobs in Cardiff¹⁶⁶.

¹⁵⁷ Law Society’s Gazette. *Welsh government boosts ‘new-style’ firm with £325,000 grant*, 3 June 2015.

¹⁵⁸ Carbon Law. *Carbon Law Partners granted alternative business structure status*.

¹⁵⁹ Carbon Law. *Stakeholder firm Carbon leads the way*.

¹⁶⁰ <https://cjchconsulting.co.uk/services/>.

¹⁶¹ CHCH Solicitors. *CJCH Solicitors to create 71 jobs in Cyber Security with backing from Welsh Government*, 27 March 2017.

¹⁶² Redde plc. *About Us – Company Info*.

¹⁶³ NewLaw Solicitors. *We are NewLaw Solicitors*.

¹⁶⁴ Legal Futures. *ABS-hungry NewLaw eyes more joint ventures*, 28 February 2017.

¹⁶⁵ Legal Futures. *“A new type of law firm” is needed to tackle PI reforms*, 1 February 2019.

¹⁶⁶ Law Society’s Gazette. *NewLaw creates 86 jobs in Cardiff*, 11 October 2013.

IFA / accountancy partnerships

In our initial project outline, it was agreed that we should explore novel business models in legal services, such as those offered in partnership with independent financial advisors or accountants. To explain the context of this research: until 2007, the legal profession in England and Wales was subject to strict rules, which hindered the ability of solicitors and other professionals to join forces and offer clients a “one-stop service” with a legal component. More than 10 years on from this liberalisation watershed, we have sought to establish the extent to which the Welsh legal sector has embraced its freedom to offer their clients multidisciplinary professional advice.

Having searched for examples of such services being delivered in Wales, we have identified a very small number of multidisciplinary providers in the country, over and above those identified above. These additional service providers include:

- Hugh James, whose five-strong team of independent financial advisors operate out of Cardiff. The services offered by this firm include investment and wealth management, inheritance tax planning and trusts
- The Goldsboro Group offer a range of professional services via various associated partner practices. These associated practices include Amparo and Equilibrium Law in the legal sector, The Tenby-based The Alexander Partnership (Accounts) Limited in the accounting space, and the Cardiff-based Qwill in the will writing and lasting power of attorney space

This is not, we admit, a large number of examples. However, it arguably reflects the reality of novel legal practices in Wales. In chapter three of our report, we provided a summary of the Welsh solicitors’ profession, drawing on data provided to us by the SRA. This data showed that there are 391 solicitors’ firms based in Wales – but only 1% of Wales-headquartered practices offer SRA-regulated financial advice and services¹⁶⁷.

The SRA data we were provided with did not record the number of Wales-based law firms who also offered accountancy or will-writing services. However, having been unable to uncover any Welsh examples other than those we have identified above, we wonder if this might be because they are very few in number. For example, having reviewed the branch – as opposed to the back office – locations of the legal arms of the Big Four accountancy practices, we have been unable to identify any of them offering multidisciplinary services that are overtly targeted at the Welsh legal market.

We find the apparent lack of multidisciplinary co-operation between lawyers and other professionals in Wales perplexing, given the makeup of the legal profession in the country. SRA data tells us that law firms in Wales are often small, both in terms of headcounts and revenues. One might have thought that overhead sharing with other professionals would be commonplace among small legal practices – for the benefit of the practices themselves, let alone their clients. That said, we appreciate that this form of inter-professional collaboration has not become commonplace in England either.

¹⁶⁷ Jomati. *The Legal Sector in Wales – a rapid review (Part one)*, March 2019, p9 – 12.

Online legal services

According to research undertaken by the Legal Services Board, a mere 8% of legal service providers across England and Wales currently provide online services to clients. In relation to both solicitors and barristers' chambers specifically, that figure is currently just 6%¹⁶⁸. In light of these exceptionally low percentages across the entire English and Welsh legal community, it is perhaps not surprising that – despite having scoured the websites of countless Wales-based legal practices – we were unable to uncover examples of Wales-based legal practices who offer legal services online. If online legal services are being offered by Wales-based legal practices, then little is being done to draw consumers' attention to them. This is despite the fact that such services would be a clear source of differentiation within the Welsh legal marketplace.

When considering what might legitimately be regarded as an "online legal service", our preferred definition is that the service should contain an interactive element – i.e. not just legal information – and that it should produce a tangible legal – as opposed to an administrative – output. One example of such a service would be a legal document self-assembly service, similar to those offered in the UK by the likes of legalzoom, MyLawyer and Rocket Lawyer. Another type of online legal service would include those offered by donotpay.com, rrader's "grace" chatbot¹⁶⁹, and the "Parker" chatbot provided by global law firm Norton Rose Fulbright¹⁷⁰.

Unfortunately, several of the Wales-specific example we offer below appear to fall short of what we regard as online legal services. Nevertheless, we include them – simply to illustrate just how limited the provision of online legal services appears to be in Wales.

Example one: Qwill

Cardiff-based Qwill allows users to prepare their own wills online, by answering a series of questions and then paying for the service via PayPal. However, our understanding is that this service is not entirely automated. The firm's website states that the information provided by consumers online will then be used by a will writer to "check and draft your will". This service might therefore be regarded as one that is offered online, if not delivered entirely online.

Example two: Harding Evans

In April 2018, the Newport-based Harding Evans became the "first in Wales to launch legal app"¹⁷¹. This app was described as a service that allows clients to access key documents and information regarding their transactions, and check for updates on progress at any time. Realistically, because this service appears to support the administrative, rather than legal advisory, elements of a legal matter, we struggle to regard this as an example of an online legal service.

¹⁶⁸ Legal Services Board. *Technology and innovation in Legal Services – Main report*, November 2018, p8.

¹⁶⁹ Legal Practice Management. *Breaking the law*, June 2018, p20-21.

¹⁷⁰ Financial Times. *Chatbots join the legal conversation*. 7 June 2018.

¹⁷¹ South Wales Argus. *Newport law firm first in Wales to launch legal app*. 20 April 2018.

Example three: Geldards

Geldards offers a property portfolio management solution, known as assetbox, which can be accessed and managed by clients online. Although primarily a legal documentation repository, assetbox also includes an automated scheduling tool. This tool appears to capture key deadlines and dates relating to the properties whose details are stored within it. However, our understanding is that that the legal work that arises from the triggering of such milestones would be undertaken by a human fee earner, rather than the solution itself. For that reason, we would probably not regard assetbox as an online legal service.

The second Geldards offering is an online GDPR eLearning training solution. We have been unable to establish from Geldards whether this solution contains an interactive element, such as an online quiz which tests users' compliance comprehension. An interactive element would, in our view, mean that we would regard this GDPR eLearning training solution as being a genuinely online legal service. If not, we would regard it as an online legal information service only.

Does it actually matter that legal services are not routinely delivered online in Wales?

In our view, and indeed, the view the Legal Services Board, innovation – including the delivery of legal services online – is clearly a good thing, because it can help to overcome the well-known problem of “unmet need”¹⁷² for legal services. However, it is also clear that there appears to be little evidence of a sustained shift to delivering legal services online, either delivered by law firms in Wales or elsewhere¹⁷³.

In a Welsh context, it is arguably relevant that the legal sector's – sporadic – attempts to move legal services online appear to be conducted on a largely England and Wales-wide basis. This, we suggest, has implications for the debate surrounding a separate jurisdiction for Wales. For example, it currently does not matter if there is a shortage of online legal service providers based in Wales, because consumers in Wales can instead use services offered by the likes of legalzoom, MyLawyer and Rocket Lawyer. This is because, at present, the law that underpins these services is common to both jurisdictions.

Going forward, we encourage the Welsh Government to actively engage with all of the key actors that are driving the move towards online legal services – not only public sector stakeholders such as Her Majesty's Courts and Tribunals Service, but also private sector actors such as legalzoom, MyLawyer and Rocket Lawyer. This engagement should ensure that any move towards a separate legal jurisdiction for Wales does not inhibit the ability of Welsh consumers to access the limited range of legal services that are currently being delivered online. It would be unfortunate if Welsh consumers found themselves cut off, by no fault of their own, from those providers that offer online legal services, simply because the law of Wales has diverged from that of England – and no Wales-based providers have stepped in to fill that gap in the market. Based on what we have seen to date, we are not confident that Welsh-based legal service providers are likely to step into any such gaps that emerge.

¹⁷² Legal Services Board. *Technology and innovation in legal services – Main report*, November 2018, p74.

¹⁷³ *Ibid*, p8.

Technology tools

During the course of our research, we undertook extensive efforts to identify Wales-based creators of LegalTech tools. This research included:

- Reviewing the LegalTech press for examples of Wales-based LegalTech companies
- Speaking to LegalTech journalists, including those who have recently attended LegalTech events in Wales
- Canvassing the opinions of members of Cardiff Start – Cardiff’s 3,000+ member Facebook group for creative digital and tech start-ups
- Reaching out to the owners of the co-working space provider for start-ups, indycube
- Reviewing the headquarter locations of LegalTech startup companies listed in a summary guide published by Legal Geek and Thomson Reuters
- Enquiring whether any LegalTech start-ups were based in Barclays’ Eagle Lab in Cardiff

Despite this extensive outreach effort, we were only able to identify one overtly LegalTech solution provider based in Wales, and two further companies which might be tangentially regarded as such. This is a somewhat disappointing total and suggests that Wales is not currently home to a thriving independent LegalTech sector.

Of all the Welsh companies we encountered, that might legitimately be described as operating in the LegalTech market, *hoowla* was the stand-out example. This company is a legal case management software solutions provider and is based in Swansea. Although *hoowla* is just one of many vendors that is active in this particular segment of the UK LegalTech market, the company appears to have developed a respectable client base, mostly among SME law firms based in England¹⁷⁴. *hoowla* is also notable for winning Legal Geek’s inaugural LawTech startup award in 2016¹⁷⁵.

Beyond *hoowla*, Cardiff-based Properr Software arguably straddles both the LegalTech and PropertyTech sectors. Properr Software’s cloud-based “Track my move” service aims to streamline the UK property sales market, by allowing estate agents, buyers, sellers and legal teams to track the progression of individual transactions. In June 2017, it was confirmed that Properr Software had received finance worth £850,000 to develop its online platform, in a funding round led by Finance Wales.

Both *hoowla* and Properr gave presentations explaining their services at the LegalTech Wales event, held at Swansea University in January 2018. Both companies are therefore known to this institution.

The final Wales-based company that we encountered which might, tangentially, be described as a LegalTech solutions vendor is the Awen Collective, a Caerphilly-based startup. One of the Awen Collective’s suite of solutions is “Profile”, a compliance checking tool aimed at the critical infrastructure sector. Profile allows organisations in the electricity, water, oil and gas sectors – among others – to check their compliance with both the EU’s Network and Information Systems Directive and also the UK’s Cyber Assessment Framework. The fact that the Awen Collective is a technology company rather than a traditional law firm can perhaps help explain why it has so far not been noticed by the likes of Swansea Law School. Not all enterprises, who are active in the Welsh legal services market, structure themselves in a way that is familiar to, or known by, the Welsh legal community.

¹⁷⁴ *hoowla*. Case Studies.

¹⁷⁵ *hoowla*. *hoowla Wins LawTech Award*, 24 October 2016.

Local authority innovation

In recent years, there has been a growing phenomenon for in-house legal teams at English local authorities to combine, become standalone corporate entities, and – in some cases – seek to become revenue generators for their local authority shareholders, by selling their legal expertise to external clients on the open market. English authorities to go down this route include:

- HB Public Law – a 150-lawyer practice which combines the in-house legal functions of Aylesbury Vale District Council, Buckinghamshire County Council, and the Greater London borough councils of Barnet, Harrow, and Hounslow
- LGSS Law – a 58-solicitor practice which combines the in-house legal teams of Cambridgeshire County Council, Northamptonshire County Council and Central Bedfordshire Council
- nplaw – a 32-solicitor practice which combines the in-house legal teams of Great Yarmouth Borough Council, Norfolk County Council and Norwich City Council

Our research suggests that the approach taken by in-house legal teams at Welsh local authorities is somewhat different from their English counterparts. Unlike several of the English examples outlined above, Welsh local authorities have not transferred their legal teams to new corporate vehicles. Instead, these legal teams have tended to remain employed by their own local authority which, in turn, then forms a multi-council consortium. These in-house legal local government consortia were grouped according to three geographical regions within the country: North Wales, Central and South Wales, South East & Mid Wales.

The Central and South West Wales Shared Legal Service

The Central and South West Wales Shared Legal Service (CSWWLS) consortia comprises seven local authorities: Bridgend, Carmarthenshire, Ceredigion, Neath Port Talbot, Pembrokeshire, Powys and Swansea Councils.

Elements of the CSWWLS shared service include:

- Monthly meetings at a senior level, which aim to share best practices and collaboration opportunities
- Joint procurement of case management systems, electronic library provisions, etc
- Joint training opportunities for the region's lawyers
- Networking opportunities
- Work referrals between authorities, supported by agreed inter-authority charging rates
- Shared special interest groups
- Ad hoc joint recruitment of lawyers that are shared between authorities
- Joint training contracts for junior lawyers

Research conducted by the Cardiff Business School informs us that the CSWWLS scheme was initially supported by a £151,830 grant, provided by the European Social Fund (ESF) and Welsh Local Government Association (WLGA). This grant enabled the combined group to develop its shared ITC systems, and engage the services of a practice / project manager¹⁷⁶. It is our understanding that the practice / project manager role was discontinued following the cessation of the ESF / WLGA grant.

¹⁷⁶ Downe, J, Hayden C *et al.* *Evaluation of Regional Collaborative Working, Final Report*. 10 November 2016, p76. Available at: <https://gweddill.gov.wales/docs/caecd/research/2016/161110-evaluation-regional-collaborative-working-en.pdf>.

North Wales Councils: Legal Services Collaboration

It is our understanding that the in-house legal teams at six local authorities in North Wales – Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd and Wrexham – co-operate in relation to legal services delivery. Collectively, this group is known as North Wales Councils: Legal Services Collaboration (NWLSC). Elements of the NWLSC include:

- Monthly face-to-face meetings of the heads of legal at all six councils
- Monthly meetings via the project board at a strategic level
- Monthly meetings via the project team at an operational level
- An annual one-day training event
- Virtual teams to share work relating to prosecution and social care
- The establishment of special interest groups (SIGs). SIGs allow staff to meet with colleagues elsewhere in the region who specialise in similar legal fields and to share knowledge and experience¹⁷⁷
- A shared case management system between four in-house legal departments – Conwy, Denbighshire, Flintshire & Wrexham

Like the CSWWLS example above, it is understood that the NWLSC received funding from the ESF / WLGA to assist with the project's rollout, which formally launched on 1 April 2012. We understand this funding comprised a total of £214,700, £144,933 of which came from the ESF and £69,767 of which came from the WLGA¹⁷⁸. Since its creation, the NWLSC has also secured £30,000 of ADAPT funding, which was used to support a two-week programme at the Venue Cymru, Llandudno in September 2012.

South East & Mid Wales Shared Legal Service Project

The South East & Mid Wales Shared Legal Service Project (SEMWSLSP) encompassed the in-house legal departments of the following Welsh councils: Blaenau Gwent, Caerphilly, Cardiff, Merthyr Tydfil, Monmouthshire, Newport, Powys, Rhondda Cynon Taf, Torfaen and – latterly – the Vale of Glamorgan¹⁷⁹.

The project's initial pilot comprised the following elements¹⁸⁰:

- Reciprocal arrangements for inter-authority working and co-operation, based around fixed fees
- Shared services in relation to prosecutions and insurance claims, initially
- Virtual teams and special interest groups
- Joint procurement of online library and research materials
- Shared commissioning of training and staff development

It was also envisaged that a dedicated website, and a common approach to appraising software, might also be created in due course. However, it is our understanding that the SEMWSLSP team has not met since February 2018, and that the group is now effectively moribund.

¹⁷⁷ Ibid, p21.

¹⁷⁸ Ibid, p73.

¹⁷⁹ Vale of Glamorgan. *Shared Legal Service Project SE & Mid Wales. Outline Business Case. A programme for collaborating across SE & Mid-Wales*, p2.

¹⁸⁰ <http://apps.dataunitwales.gov.uk/RCC/View.aspx?region=3&id=148>.

Cardiff City Council's in-house legal team

It is our understanding that Cardiff City Council's in-house legal team is no longer part of the SEMWSLSP consortium. Instead, the team has now taken a different approach to boosting its productivity: it actively seeks out work – and therefore revenues – from local and / or public authorities in Wales and beyond. The team's client base includes schools, for whom it provides employment tribunal advice and – notably – the organisers of the Cardiff Capital City Region. Going forward, Cardiff City Council's in-house legal team will provide legal advice associated with regeneration matters for this £1.2 billion, 20-year project, which encompasses 10 Welsh local authorities. Here, it is arguably relevant that Cardiff City Council's in-house legal team has sufficient strength and depth to undertake this additional work, without the need to belong to a wider regional consortium: with 29 solicitors registered as working for Cardiff City Council, its in-house legal headcount is singlehandedly almost as large as other multi-council consortia.

Future support for Welsh local government legal services?

How might the Welsh Government help Welsh local authorities' in-house legal teams to function better? There was little agreement among the local authority in-house respondents to our survey, when we sought feedback on how the Welsh Government might be able to help them. The responses we received ranged from a request for greater clarity from the Welsh Government in relation to its approach for "sustainable drainage" to a plea to support legal apprenticeships. Indeed, the only theme mentioned by more than one survey respondent focused on a request for assistance in relation to the recruitment of specialist practitioners. As one survey respondent put it:

"We have a recruitment crisis in respect of certain areas such as commercial; childcare practitioners and adult social care. I have been out to advert at least six times with no interest - and we pay one of the highest salaries in (X region). The pool is just not out there, and we end up spending a ridiculous amount of money on locums from England."

Looking to the future, we could see the potential benefit of modest Welsh Government support for the re-establishment of something akin to the SEMWSLSP consortium – with or without Cardiff City Council's involvement. Our impression from the other two regional consortia, which continue to exist elsewhere in Wales, suggests that the modest financial support given to these consortia during their respective start-up phases was highly valued, and much needed. In both cases, project managers were employed, with the specific intention of helping to create the organisational infrastructure that later underpinned the consortia. It is our understanding that this infrastructure remains in place in both consortia to this day. We can therefore say that this small-scale investment appeared to yield long-term value for those involved in the project.

Support we believe the Welsh Government should not offer – at least, not yet

One form of innovation that, on balance, we do not believe the Welsh Government should actively support at this time is to encourage Welsh local authorities to adopt a more overly commercial approach to delivering their legal services – i.e. to require them to spin off their legal arms into standalone companies, or demand that in-house legal teams seek to become profit centres. We say this for one main reason: we have recently discovered evidence which suggests this outcome is proving very difficult to deliver. To illustrate this point, we highlight two examples of English in-house legal functions that have failed to generate notable financial gains for their respective council shareholders.

The first example we offer is arguably the “posterchild” for local government legal services innovation, Invicta Law. Founded as an alternative business structure in 2017, this 150-strong spin off from Kent County Council had been tasked with almost tripling its revenues over a ten-year period, from £10.8m in its first year of trading to £29.8m by year 10¹⁸¹. But, in reality, Invicta Law’s initial financial performance has been less than stellar – the firm has only recently begun to generate an “underlying trading profit” of £320,000 during the first half of the financial year just ended. Indeed, during the first half of the 2017 / 2018 financial year, Invicta Law made a loss of £428,000¹⁸². Invicta Law’s long-standing inability to meet the revenue target it set for itself in its business plan means that Kent County Council has faced a dividend shortfall of £1 million¹⁸³.

Similarly, recent press reports suggest that the combined in-house legal company of Cambridgeshire County Council, Northamptonshire County Council and Central Bedfordshire Council – LGSS Law – had also not yet paid a dividend to its local authority shareholders. Indeed, it has instead been forced to borrow money¹⁸⁴ – not least because one of its client councils owes it a large amount of money¹⁸⁵.

We therefore suggest that the recent trading histories of Invicta Law and LGSS Law indicates that the local authority “in-house legal revenue generator” is a business model that is not yet proven.

¹⁸¹ Local Government Lawyer. *Kent County Council targets June launch for Invicta Law ABS*, 7 March 2017.

¹⁸² Law Society’s Gazette. *Kent Council ABS hails ‘positive’ half-year results*, 22 November 2018.

¹⁸³ Kent County Council. *Cabinet agenda*, Monday 26 March 2018, p22 – 23.

¹⁸⁴ Law Society’s Gazette. *Local authority ABS under spotlight over £1m overdraft*. 25 March 2019.

¹⁸⁵ The Comet. *Firm managing Central Beds Councils legal affairs runs up £3 million debt*, 31 July 2018.

Conclusions and recommendations

It would be wrong to assert that the Welsh legal market is bereft of innovation. In this report, we highlight several innovative Wales-based legal practices, including Admiral, CJCH Solicitors and NewLaw. Nevertheless, it is unfortunate that we have not seen the emergence of online legal service providers in Wales, nor “one-stop-shop” multidisciplinary offerings. In their own ways, we tentatively suggest that either of these business models might reduce access to justice challenges in Wales – the former because online legal services might provide some elements of access to justice, and the latter because one-stop-shop offerings might offer the opportunity for SME law and other professional services to share business overheads. As we have mentioned previously, SRA data tells us that many law firms in Wales are relatively small, compared with their English counterparts.

In terms of how the Welsh Government might encourage either of these developments, we make the following suggestions. Firstly, we reiterate that it is useful for the Welsh Government to actively engage with the few providers of online legal services that already exist, with a view to ensuring that they are aware of where Welsh law is different from that of England, so that they may recalibrate their offering accordingly. We also suggest that any Welsh Government investigation into advice deserts explores the option of encouraging SME legal service providers to consider sharing premises and personnel with associated professionals, where to do so might improve the financial viability of all of their businesses.

We do not, necessarily, suggest that the Welsh Government should attempt to stimulate legal sector innovation by way of significant public sector investment – although we note that the likes of CJCH Solicitors and NewLaw have benefited from such investments in the past. Rather, we see a role for the Welsh Government in fostering cross-sectoral collaboration and mutual awareness-raising – for example between universities offering LegalTech courses and innovative employers who are likely to require the skills of graduates who take these courses.

In relation to local government in-house legal functions, we suggest that – as the SEMWSLSP consortia appears to be defunct, the Welsh Government should consider providing its former members with modest funding, in order for it to re-establish itself – even if Cardiff City Council does not wish to take part.

In terms of revenue generation innovation, our main suggestion is that the Welsh Government simply does nothing at this stage – but keeps a watching brief on the future financial success (or otherwise) of Invicta and LGSS Law. Only if these ventures prove to be a commercial success would we suggest that the Welsh Government consider promoting this business model to local authorities within Wales. To date, the low-key, ad hoc, approach to external revenue generation – such as that adopted by Cardiff City council's in-house legal team – appears to be reasonably successful, and also relatively low risk.

Chapter sixteen: Conclusions, policy considerations and suggested action plan

Overall, our report offers a mixed picture of the legal profession in Wales. On the one hand, our research in chapter three suggests that some segments of the Welsh legal market appear exposed. This is for a number of reasons, including the reduction of legal aid, the closure of magistrates' courts, and the sector's high dependence on the cyclical conveyancing market. The relatively small size of many Welsh law firms, the aging demographics of the solicitor population, the lack of training contract opportunities, and the absence of a notable LegalTech sector all add to the risks facing the Welsh legal market. On the other hand, as we illustrate in chapters six and 15, a range of unconventional legal practices in Wales, such as Admiral Law, CJCH Solicitors, NewLaw and – potentially Deloitte – appear to tell a more positive story.

We were also pleased to discover the scale of public sector innovation in Wales, specifically in relation to intra-region co-operation. What has been developed appears to have been created with only modest upfront financial support – but the results seem to have largely endured. It would probably be helpful if the Welsh Government investigated whether further support might be required, in order to potentially resuscitate the South East & Mid Wales Shared Legal Services Project. This is the only one – of three – Welsh public authority legal services co-operatives that appears to have failed.

Staying on the subject of Welsh Government support: we note that the Welsh Government's EAP envisions a move away from targeted support for specific industry sectors. We are comfortable with this policy, not least because our research – outlined in chapter 10 – indicates that the mainstream Welsh legal profession is generally indifferent, if not actively hostile, to Welsh Government support. Even aided by enthusiastic – in-person – marketing, the Welsh Government is therefore likely to face considerable cultural resistance by the legal sector towards accepting support. Some Welsh law firm leaders are ideologically hostile to government assistance, especially support which is perceived to be market distorting.

Further, in light of our additional findings – also contained in chapter 10 – we express reservations about whether the Welsh legal profession would have any appetite for collectively promoting itself to the outside world, even with active Welsh Government encouragement. Our experience suggests that Welsh lawyers are happy to come together for a shared purpose, where they perceive that such collaboration benefits them directly. In the absence of a clear, shared purpose, Welsh legal practice leaders tend to revert to thinking of their local counterparts as competitors, with whom they do not need to co-operate.

That said, it is clear from our interviews that a number of law firms in Wales are struggling to respond to the LegalTech phenomenon. It appears that their key need is to understand what technology is available and how it can be applied to the business. Helpfully, as we also note in Chapter 10 of this report, several events on LegalTech have taken place in Wales within the past two years, with another – at Swansea University – due to take place in August this year. This level of LegalTech educational activity in Wales suggests to us that there is no particular need for the Welsh Government to organise a similar event in the near future. However, we would encourage the Welsh Government to actively promote those events that are due to take place. This encouragement should not only help raise awareness of LegalTech within the Welsh legal sector, it would also highlight to the wider world that elements of the Welsh legal market are actively embracing legal technology.

Our research in chapter six suggests that that financial incentives, offered by governments, do not play a significant role in the legal practice nearshoring decision-making process. That said, because our research in chapter 14 indicates that other UK nearshore locations appear to be reaching saturation point in relation to the legal sector, we believe that occasional non-financial interventions by the Welsh Government might be useful in helping Cardiff to get “over the line” during future nearshore investment evaluations. Having observed how Northern Ireland has repeatedly deployed senior politicians in its previous – and often successful – attempts to attract legal practice nearshorers to Belfast, we also suggest that senior Welsh Government politicians should follow a similar approach. We recommend that ministerial-level representatives should take an active role in promoting Cardiff as a potential legal nearshoring service centre location. We understand that the individuals who make legal practice nearshoring investment decisions sometimes respond well to support offered by national, as opposed to regional / city, political leaders.

In relation to how the Welsh Government – and wider public sector – can support the legal profession in Wales via the procurement process, we suggest that the Welsh public sector’s conceptual starting point in relation to this issue should be an appreciation of the weakness of its overall purchasing power. In reality, Welsh public sector spending levels typically comprise a small percentage of the income of the Welsh legal sector as a whole – and even of individual legal practices that are instructed.

In light of the Welsh public sector legal spend data we have analysed, our findings in chapters seven and eight suggest that we do not believe it is necessary for the Welsh Government, or wider Welsh public sector, to actively seek to enhance the amount of work going to solicitors’ firms in Wales: firms with a Welsh presence are already instructed to a disproportionate extent, compared with their counterparts elsewhere in the UK.

Nevertheless, we suggest the procurement process for solicitors’ services in Wales should be made simpler, not more onerous: indeed, a model of simplicity already exists in relation to the procurement of barristers’ services in Wales. That said, we also think it would be beneficial if the Welsh Government showed a willingness to take moderate risks in relation to the procurement of legal services. Especially in relation to novel areas of law, we believe it is right to encourage the development of expertise locally within Wales.

In contrast with the purchasing of solicitors’ services, we believe there is a more urgent need for the procurement of barristers’ services to be reviewed. We welcome the fact that the procurement of barristers’ services in Wales is both open and straightforward. However, we believe that this has resulted in its own problems: in our view, too many barristers – both in Wales and elsewhere – are languishing on both the Welsh Government and Welsh NPS panels for legal services, having received few, or no, public sector instructions. We therefore suggest that existing panel members should be presented with an accurate value of recent instructions in relation to their particular specialism. The objective of this exercise should be to encourage barristers who have little or no prospect of receiving instructions of a reasonable financial value to withdraw their place on the panels. In terms of encouraging greater use of Wales-based barristers, we suggest that it would be helpful if the Welsh Government’s existing outreach initiatives were maintained, and perhaps extended to include those public sector entities who commission barristers’ services via the wider NPS framework.

In chapter three of our report, we highlight the complex nature of advice deserts, and suggest that the Welsh government should take a highly granular approach to assessing the scale of this problem in Wales. Later, in chapter 11, we briefly explore how some segments of the justice sector have responded to the collapse in the provision of legal services – prompted by cuts to legal aid – by being highly inventive in relation to how they provide those services by alternative means. As the Welsh Government seeks to take competency over legal aid spending, as part

of its bid to create a separate jurisdiction for Wales, we suggest that it learns from the past few years of austerity-imposed experimentation in alternative legal services delivery. In some situations, the Welsh Government may conclude that it simply wishes to reverse past spending cuts, and restore spending on lawyers and other legal aid advisors. But, where alternative legal service provisions have proved to be equally effective – if not more so – then we suggest that these delivery mechanisms should be supported.

One potential – if partial – solution to the legal advice desert challenge in Wales is the provision of legal services online. However, as we highlight in chapter 15, the provision of genuinely online legal services in Wales appears to be practically non-existent. If there is no clear move for the Welsh private practice legal community to deliver legal services online, we suggest that the Welsh Government should engage with England-based providers who already offer such services, with a view to encouraging them to also deliver services that have a Welsh-law only element – where appropriate. This would help to ensure that Welsh residents are not disadvantaged by the ongoing divergence of English and Welsh law, and the proposed creation of a separate jurisdiction for Wales.

Staying with the separate jurisdiction for Wales theme, our research in chapter 11 indicates that the Welsh legal profession's view on this subject is highly nuanced, but also underpinned by a common concern – essentially: is this going to help, or hinder, my business? We therefore suggest that the Welsh Government should proactively “sell” its plan to the legal profession in Wales at a fairly granular level. It should be spelled out, for example, what a taking control of justice policy would mean for practitioners likely to be affected by such a development. To achieve this object, we suggest that Welsh Government representatives should attend as many legal sector pre-existing “umbrella” events as possible over a prolonged period of time, in order to engage with all sectors of the Welsh legal profession – be they lawyers or academics, private practice or in-house, public or private sector. For private practice professionals in particular, we suggest that such an engagement programme should have a particular focus on practice rights: the Welsh Government should explicitly set out how it intends to ensure that lawyers, and also legal work, will continue to freely flow across the border between England and Wales.

An important part of the development of a new jurisdiction is the creation of a pool of talent that is familiar with its laws. However, as our findings in chapters four and 12 indicate, the Welsh Government should appreciate that Welsh law schools are unlikely to make Welsh law central to their undergraduate teaching courses or research focus: Welsh legal education is very much based around the export of legal talent. As a result, Welsh law schools have no clear incentives to focus heavily on the teaching of Welsh law in preference to English law. Recognising this fact could, in turn, facilitate creative thinking about how practitioner expertise in Welsh law might be encouraged. Rather than expecting that Welsh law might become a focal point of undergraduate law study, it may be more productive for the Welsh Government to support the teaching of Welsh law at postgraduate level, with courses aimed at Wales-based practitioners. If the Welsh Government wishes for research into – or commentary on – Welsh law to be produced, it is likely that it will need to pay to support its production.

Continuing with the university sector, we suggest that the Welsh public sector – collectively – puts in place a formal procurement mechanism for the purchasing of Welsh law expert services from the legal academic community. It may be appropriate for this procurement mechanism to be built into the wider reforms of the public sector tendering of legal services. This approach would provide the Welsh public sector with an overview of the extent to which it is making demands on the academic legal community regarding Welsh law issues. We understand that the Welsh public sector's engagement with the Welsh law academic community is not currently centrally documented. This has led to complaints that excessive demands are being made on some academics' time – without appropriate recompense. To start this evaluation process, we suggest that the Welsh Government should actively engage with the leaders of Welsh law schools, with a view to understanding how many demands are currently being made on the time of Welsh law specialists by the public sector as a whole.

In chapter five, we express our disappointment with the apparent cessation of the legal apprenticeship programme in Wales. Just as importantly, we were also disappointed by the poor quality of official data that relates to legal apprenticeships in Wales. The poor quality of this data has made it difficult for us to confidently identify which vocational legal qualifications are genuinely popular among Welsh residents, as opposed to identifying which legal vocational exams happen to be taken in Welsh assessment centres. Before any recalibration of the Welsh legal apprenticeships scheme is undertaken, we suggest that the data shortcoming – identified in chapter five of this report – should be rectified.

Once this exercise is complete, we suggest that the Welsh Government takes an evidence-based approach to the future provision of legal apprenticeships in Wales. As part of a more general move towards new, higher-level apprenticeship frameworks, we suggest that the Welsh Government actively engages with the Welsh legal community about what type of apprenticeship they want, and aim to deliver that outcome. In terms of who should provide that training, we suggest that the Welsh Government opts to work with those with a proven track record of qualifications provision, such as CILEx and Pearson. Finally, if the – now more robust – apprenticeship data confirms that level 6 apprenticeships are genuinely popular among Welsh candidates, then we suggest that the Welsh Government should support the provision of such qualifications in Wales.

Our brief discussion on the possible impact of Brexit on the Welsh legal sector is set out in chapter 13. In relation to the Brexit issue, we suggest the Welsh Government takes a highly targeted approach to any support offered to the legal sector. For example, the Welsh Government may find it useful to actively monitor the numbers of undergraduate law students that enrol in Welsh law schools, in case any drop-offs in numbers causes courses to become non-viable. Similarly, we suggest a programme of active monitoring of those segments of the Welsh legal market that are most exposed to any loss of confidence in the wider Welsh economy. We suggest that the conveyancing market would be an obvious focal point of Welsh Government monitoring, in light of its relatively high importance to the Welsh legal sector.

Due to the short term nature of the review and the breadth of the terms of reference it has not been possible to provide detailed recommendations in relation to every aspect of the report. In particular we were not able to engage as widely across Wales, particularly in the north and more rural areas, as we would have liked. Nor were we able to obtain the level of data in relation to SMEs required to make firm recommendations for supporting the sector in these areas. As we outline in Chapter 3 we recognise there are potential advice deserts emerging across Wales. We suggest the Welsh Government may wish to undertake further work in the way we have outlined. The Welsh Government may also wish to engage with legal firms, particularly those in more rural areas, to identify the issues currently being faced and explore in more detail the suggestions we have made.