

## Media briefing – Law Society Gazette interview

<b>Date and time</b>	Tuesday 17 <sup>th</sup> January, 12.30pm
<b>Location</b>	Ty Hywel (5 <sup>th</sup> floor office)
<b>Press officer</b>	Redacted – Section 40
<b>Media contact</b>	Redacted – Section 40
<b>Brief summary</b>	Interview with Redacted – Section 40 at the Law Society Gazette on the ‘aftermath of the Thomas Commission and the extent to which Wales takes control of the law and justice from Westminster’.
<b>Interview format</b>	1 to 1 in-person discussion.
<b>Key messages</b>	<ul style="list-style-type: none"><li>• Our vision for a devolved justice system focuses on prevention, recognising that only delivering social justice can truly address the underlying reasons for pressures on the justice system.</li><li>• We continue to work to improve outcomes in the areas of the justice already devolved to Wales, and areas which interface with the justice system.</li><li>• The independent Commission on the Constitutional Future of Wales said they have yet to be presented with a coherent argument as to why the devolution of justice and policing is not desirable, while the Brown Commission recognised there is no reason of principle why matters devolved to Scotland could not be devolved in Wales.</li></ul>

### Lines to take

#### Delivering Justice for Wales

- We published Delivering Justice for Wales in May 2022. Instead of making a series of promises, we set out a track record of justice related activity. This includes the work we are doing to improve outcomes in areas of the justice system already devolved to Wales and areas which interface with the justice system.

- Delivering Justice for Wales also sets out some ideas on how we could do things differently in the future.
- Our vision for a devolved justice system focuses on prevention, recognising that only delivering social justice can truly address the underlying reasons for pressures on the justice system.
- Since then, we have tried to draw on expertise to build our understanding in specific areas of the justice system and take the debate forward. We want to talk about the shared vision we think exists for a distinctive Welsh approach to justice.
- Our immediate focus is on co-producing a plan for how various elements of a devolved justice system in Wales will operate with those who have expertise and lived experience in the justice system.
- We will publish an annual review of the Delivering Justice for Wales report, detailing progress on the work programme. This report will also provide a summary of the work undertaken so far to further build our understanding of justice devolution.

### **Engagement with the UK Government on justice (inc. Thomas Commission recommendations)**

- In October I spoke at the Legal Wales Conference to mark the new Welsh legal year, outlining four things we wanted the new UK Government to do:
  - Change the tone of its relationship with the legal sector, moving away from language like ‘activist lawyers’ and ‘lefty human rights lawyers’.
  - Ditch the Northern Ireland Protocol Bill, the Bill of Rights, and the Retained EU Law Bill.
  - Invest in the justice system.
  - Fully engage with developing the Welsh justice system based on recommendations from the Thomas Commission.
- Justice is an area where engagement with the UK Government over the past year has been disrupted by the significant changes in the UK Government.
- While there has been insufficient continuity of ministers in the Ministry of Justice over the past year, the situation appears to be improving. I have been able to establish some meaningful engagement with Lord Bellamy KC following his reappointment as Parliamentary Under-Secretary of State for Justice.
- Lord Bellamy has also confirmed that the Inter-Ministerial Group for Justice is ready to proceed and meetings are expected to begin shortly, once plans are agreed by the four governments.

- I am continuing to press the UK Government on the Thomas Commission recommendations. Lord Bellamy recently suggested MoJ had agreed to take forward five of the recommendations that were part of the initial triage process between officials, although we are waiting to understand what exactly is being proposed.
- The UK Government has cited joint working with the Welsh Government in respect of the Thomas Commission as “extensive and on-going”. My benchmark is the tangible progress that can be made to realise the vision set out by the Thomas Commission to deliver better outcomes for the people of Wales. I do not think we can say that the UK Government’s actions have delivered any real progress against that benchmark.

## **Legal aid**

- In Wales and in the rest of the UK we are heading towards an increasingly two-tier justice system.
- Legal aid is no longer available for many who need it. Those eligible for legal aid find it hard to access, and wide gaps in provisions are not being addressed.
- This is completely contrary to the vision that lay behind the creation of the state legal aid system.
- The Bellamy Review found that that there had been 'years of neglect' of the legal aid system. He expresses serious concerns about the impact of funding cuts on the 'equality of arms' between prosecution and defence, which not only appears unfair but causes profound unfairness.
- We agreed with its central recommendation that at least £135m additional funding is needed each year just to support criminal legal aid.
- The UK Government’s response to this review fell short of meeting the challenges faced by the sector.
- We are doing all we can to make up for the failings of the current system and to support those most in need of social welfare advice. This includes funding for single advice fund services, and funding for the Cardiff drug and alcohol court pilots.

## **Strikes**

**Background Redacted – not in scope for relating to misinformation, public messaging strategy, or reputational risk**

## **Lines to take**

- We made our position clear on substance of legal aid funding in our response to the Bellamy review on criminal legal aid: the whole justice system, and legal aid in particular, have been chronically underfunded for some time – with Wales suffering disproportionately.
- In this context, we understand the strength of feeling among solicitors and barristers.
- As Counsel General it wouldn't be appropriate to give an opinion on industrial action in the legal sector, but across Welsh Government we take a social partnership approach and work hard to have much more positive relationships with unions and representative bodies. We respect the rights of members of those organisations to elect through proper democratic processes to withdraw their labour.

### **The Independent Commission on the Constitutional Future of Wales and justice devolution**

- It is important to recognise that this is only an interim report. Nevertheless, it is telling that the Commission said that they “have yet to be presented with a coherent argument as to why [devolution of justice and policing] is not desirable”
- It was positive that Lord Bellamy came to the Senedd recently and took questions on the UK Government's position, but I think Members can judge for themselves from that whether there really was an argument of principle made against devolving justice.
- We will of course continue to support the Commission in the remainder of its work.

### **Commission on the UK's Future (Brown Commission) and justice devolution**

- We welcome the Brown Review's recognition that there is no reason of principle why matters which are devolved in Scotland could not be devolved in Wales, including justice and policing.
- The Brown Commission suggests starting the process of justice devolution with the devolution of youth justice and probation.
- We agree with this phased approach - in Delivering Justice of Wales, we were clear that “we do not see reform of the justice system in Wales being a single event, but rather a process of change over time, prioritising those areas where we can most improve outcomes for Welsh citizens”
- But the Brown Commission also rightly says that it is for people in Wales, through the Senedd, to determine the right level of devolution for Wales, which must include the timing and sequencing.

- Policing is another area where devolution has been advocated as long ago as the Silk Commission, and the Senedd voted in favour of devolution of policing this March.
- I know that Gordon Brown was keen not to undermine the work of the McAllister/Williams Commission and I'm sure that will also have some important things to tell us about how we improve justice outcomes for the people of Wales.

### **Background**

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