



Llywodraeth Cymru
Welsh Government

Delivering Justice for Wales

Summary and Work Programme

May 2022

Purpose of this publication

“the people of Wales are being let down by the justice system in its present state”

Lord Thomas of Cwmgiedd

A fair and effective justice system is fundamental to any country. Without it, laws can be ignored, and none of us are safe. This is a publication about building the strongest possible justice system for Wales. It does not start by asking the question who should run the justice system, but rather what reforms need to take place so that we can get the best possible results.

Our approach to justice in Wales is one which is built on successful partnership working.

We work closely with devolved and non-devolved partners as part of a whole-system, person-centred approach to justice. Devolved areas such as housing, substance misuse and mental health are crucial in allowing Welsh citizens to live healthy, crime-free lives. We play an active role in the current system, working with partners to deliver the

best possible outcomes. This is particularly exemplified by work on the Youth Justice and Women’s Justice Blueprints, as well as our joint working on Violence Against Women, Domestic Abuse and Sexual Violence.

Despite this, we know that our justice system could be so much better.

Our successful partnerships happen in the broader context of a disjointed system, where services which should be tied together are instead split across devolved and non-devolved bodies. The effectiveness of these partnership arrangements and their ability to improve are therefore fundamentally limited — which impacts on our collective ability to deliver the best possible outcomes for people in Wales.

In the words of the former Lord Chief Justice of England and Wales, Lord Thomas of Cwmgiedd, “the people of Wales are being let down by the justice system in its present state”. These words are contained in the report of the independent Commission on Justice in Wales, which he chaired, following the largest ever examination of the state of the justice system in Wales, based on written evidence from more than 200 individuals, institutions and organisations, and over 150 oral evidence sessions across the whole spectrum of the justice system.

The Commission’s conclusions were clear. If the justice system is to be truly reformed, policies and decisions about justice need to be determined and delivered in Wales, so that they align with the distinct and developing social, health, social justice and education policy and services in Wales and the growing body of Welsh law. **Justice policy should be developed and funding allocated to serve the needs of, and provide greater benefits for, the people of Wales.** There is no rational basis for Wales to be treated differently from England, Scotland and Northern Ireland.

We can and do work to achieve the most effective partnership working that we can within the limitations of the current devolution settlement and we often see positive results for the people of Wales. However, only through joining up the justice system with the rest of government can we truly find effective ways of reducing crime — or indeed reducing the numbers of family breakdowns, or all the other causes of the immense pressures on our justice system.

The experience of Covid-19 showed both the strengths and weaknesses of the current arrangements. The justice system was able to manage significant divergence in criminal law between Wales and England. Wales' collaborative working in getting the courts operational and Covid-secure was repeatedly singled out as exceptional. But success was built on relationships and voluntary actions rather than having the right system in place, while working with English-based agencies added needless complexity to decision making.

Planning for the longer term

It was on the basis of the Commission on Justice in Wales (Thomas Commission) findings and the Covid-19 experience that the commitment to pursue the case for devolution of justice and policing is within our **Programme for Government for 2021-26**.

That proposition was found in a number of party manifestoes, and as such it received the endorsement of a large majority of Welsh voters. We believe the case for the devolution of justice in Wales is now proven.

We also believe it is inevitable that it will happen — so we have a duty to prepare for it. We will work with experts, both academics and practitioners, to build on the recommendations of the Justice Commission and to develop and to set out how we might deliver better outcomes for Wales if powers, and the appropriate levels of funding, were to be transferred to the democratic institutions of Wales.

It is important that our vision for the future of justice in Wales is co-produced with experts and those with lived experiences of contact with the justice system; particularly those often least heard. So this publication does not attempt to set out that vision now. It is, instead, the latest stage in a conversation.

To help keep this conversation developing, we have looked to set out some of the core components of our approach to designing a devolved justice system — both within this summary and within the document.

We welcome any comments in writing on these core components of a devolved justice system — including whether there are important additional elements that should be reflected, and what some of their practical implications might be. But our primary intention is to stimulate discussion in a range of different forums about the practical implications of each of the identified components, in order to increase our preparedness.

Core components of a devolved justice system



In overseeing a devolved justice system for Wales, we would:

- Always uphold the Rule of Law, ensuring nobody is above the law.
- Guarantee access to justice and safeguard citizens' individual rights, including redress for victims and survivors of crime.
- Work to improve the experience of victims, witnesses and survivors when they come into contact with the justice system, including by building on the experience of providing remote evidence sites.
- Support safer communities and ensure that access to justice is truly universal, including by giving a prominent voice within the justice system to older people and to disabled people.
- Support and work with the brave, committed and hardworking people who work in the justice system.
- Take a rights based approach to law and policy making, and look to expand the incorporation of internationally agreed rights' standards into domestic law.
- Give the highest priority to tackling the national crisis of male violence against women, and the shockingly low levels of convictions for rape and sexual assault.
- Continue to work for an anti-racist Wales and strive to eradicate the unequal experiences and outcomes between people of different racial and ethnic backgrounds within the criminal justice system.
- Take a rational and evidence-led approach to policy making, delivered in partnership with experts, practitioners and those affected by any planned changes.
- Have a prevention focus, informed by our understanding that only through achieving social justice can we truly address the underlying reasons for pressures on the justice system.
- Work to reduce the size of the prison population by significantly reducing the use of short sentences, which have been shown to be counterproductive, and pursue alternatives to custody where appropriate, such as programmes to address mental health issues and support with treatment for drug and alcohol misuse.
- Ensure all practice across the system is trauma informed, based on our understanding of the potential impact of adverse child experiences on a person's future.
- Protect and promote the use of the Welsh language in the justice system, working to ensure that all activity within the justice system can be conducted in Welsh.
- Promote Wales as a place for legal service providers to live and work, and work in partnership with the Law Council of Wales to support the sustainability of Wales' legal professions, especially in rural and post-industrial areas.
- Continue to participate in England and Wales, GB-wide, UK-wide, European and international arrangements, where this is in everyone's mutual interest.

Making change now

We have consistently made the case for change to the present UK Government, and we will continue to do so. At the time of writing, however, despite the near unarguable conclusions of the Thomas Commission, and despite the clear mandate of the Welsh people, the UK Government continues to set itself against any significant change.

This document therefore sets out how we have been seeking to engage with the UK Government on the reforms that are needed to improve the future delivery of justice in Wales. But it also, crucially, sets out what we are doing in Wales now to support the best possible delivery of justice under the current arrangements, and what else we plan to do in the short term. As a Welsh Government, we understand that pursuing the case for devolution is not done by just talking about it. Instead, we need to pursue the case by demonstrating our values through the actions we are taking.

This publication therefore demonstrates how we are responding to those recommendations of the Thomas Commission within the gift of the Welsh Government and setting down a marker for a future devolved system.

In particular, within our own areas of responsibility we are focused on:

- managing the interface between devolved and non-devolved services, and developing joint work across governments where there is scope for agreement;
- addressing the crisis in access to justice inasmuch as we have any levers to do so;
- supporting Wales' legal sector as a key element of delivering access to justice, as well as a significant contributor to the Welsh economy; and
- ensuring the devolved elements of the justice system are an exemplar of what Wales is able to achieve.

A big part of this last ambition is our response to the Law Commission's important work on the creation of an independent, unified tribunal service for Wales.

That new tribunal service will be one of the first building blocks of a future justice system run from Wales.

The publication also sets out those other important areas in which our collaborative approach in Wales is *already* achieving positive change — such as in youth justice, police liaison and addressing the increase in numbers of children who are looked after. By no means is the Welsh Government the sole cause of the strong partnership working in all those areas; but what they have in common is that agencies and people have been able to come together voluntarily, working within the constraints of the current system to achieve impressive results.

Perhaps most importantly, this publication attempts to set out how the objective of improving the traditional justice system cannot be achieved without providing social justice. There is no other sustainable way of reducing pressure on the justice system. Providing social justice involves tackling society's greatest challenges, including poverty, intergenerational inequality and building cohesive, tolerant communities. It means tackling hate, misogyny and discrimination, not just when they spill over into criminality or other breaches of the law, but through education, explanation and building a society where everyone can thrive regardless of their background.

In particular, social justice means focusing on the most formative years of people's lives, namely the early years, through early intervention; it means taking action to tackle the social and structural inequalities which can give rise to adversity and discrimination; and it means responding quickly, comprehensively and compassionately wherever possible to childhood trauma and adverse childhood experiences.

So, whilst we will continue to make the case for radical change, we will also keep working in partnership to get the best possible outcomes from the overworked, underfunded and overstretched justice system, and to reduce the pressures on it by delivering on our mission to achieve social justice.

At the end of this document, you will find a summary of all the work contained within it. In setting out this programme of work, we hope once again to stimulate conversation on what more can be done.

However, we also hope this publication gives a sense of how much is already being done, and how it all fits together coherently — informed by those distinct Welsh values of collaboration, community spirit and desire to build a just and fair society.

OUR WORK PROGRAMME

What we've done and what we're planning to do

Prevention and early intervention

Note: activities under this heading are not all part of our justice work programme, but are examples of activity which contributes to delivering social justice, reducing crime levels and reducing levels of demand on the justice system.

What we've done:

Passed the Wellbeing of Future Generations Act.

Brought in the socioeconomic duty.

Promoted a Child First approach.

Developed the Children's Rights Impact Assessment to support ministers in giving due regard to the United Nations Convention on the Rights of the Child.

Established the office of Children's Commissioner for Wales.

Established Flying Start and Families First programmes.

Supported establishment of the ACE Support Hub for Wales.

Supported the adoption of Enhanced Case Management for young people in contact with the justice system.

Supported the delivery of Early Action Together programme.

Prohibited the physical punishment of children by abolishing the defence of reasonable punishment.

Developed a framework on embedding a whole school approach to emotional and mental wellbeing.

Diverted an extra £2m to local authorities for school and community – based counselling services.

Invested around £2m per year in the Wales Police Schools Programme.

What we're planning to do:

Continue to fund the ACE Support Hub until at least 2025.

Develop an ACEs Plan.

Support work on a new trauma-informed practice framework.

Explore how children leaving custody might be included within the Basic Income for Care Leavers pilot

Work with Violence Prevention Unit on data linking project to understand links between educational risk factors and criminal activity.

Develop a prevention framework for young people at risk of coming into contact with the justice system.

Work with partners on the next steps for the Women's Pathfinder programme and further embedding prevention and diversion activity in Wales.

EQUALITY AND JUSTICE

What we've done:

Passed the Violence Against Women, Domestic Abuse and Sexual Violence (VAWDASV) Act 2015.

Consulted on a National Strategy to prevent gender-based violence, domestic abuse and sexual violence and to protect and support victims.

Funded 13 remote court hearing facilities across Wales for victims of VAWDASV.

Established Traumatic Stress Wales.

Established three Evidence Units to collect and monitor Welsh data on equality, race disparity and disability disparity.

Developed and consulted on An Anti-racist Wales Action Plan , including criminal justice.

Run the Hate and Community Tension Board Cymru.

Funded projects such as the Community Cohesion Programme and the Wales Hate Support Centre.

Consulted on a draft LGBTQ+ Action Plan.

What we're planning to do:

Incorporate both the UN Convention on the Rights of Disabled People (UNCPRD) and the Convention on the Elimination of all Discrimination against Women (CEDAW) into Welsh law.

Consider the case for a Welsh Human Rights Bill.

Take forward recommendations from Swansea University-led research into Strengthening Equality and Human Rights.

Publish and drive forward actions relating to justice system within final agreed VAWDASV strategy and establish the VAWDASV blueprint in Wales.

Publish and drive forward actions relating to justice system within final agreed LGBTQ+ Action Plan.

Publish and drive forward actions relating to justice system within An Anti-Racist Wales Action Plan, and hold criminal justice system to account for its own Anti-Racism Plan.

Expand the use of remote court hearing facilities for vulnerable witnesses into family and other civil proceedings.

Explore the case for allowing juries in criminal trials to deliberate in Welsh.

FAMILY JUSTICE



What we've done:

Created and run the Family Justice Network to monitor the performance and operation of the family justice system in Wales.

Monitored local authorities against Reduction Expectation Plans.

Funded “Reflect” services aimed at avoiding children and women entering the care and justice system.

Provided free access to digital courses designed to prevent or manage parental separation.

Established a Family Drug and Alcohol Court pilot in Cardiff and the Vale of Glamorgan.

What we're planning to do:

Explore radical reform of current services for children looked after and care leavers, and eliminate private profit from the care of children looked after during the next Senedd term.

Continue to implement the Family Justice Network Strategic Plan.

Monitor and evaluate digital courses on parental separation.

Participate in the Private Law Working Group established by the Family Justice Board and in the evaluation of the North Wales pathfinder project.

Evaluate the Family Drug and Alcohol Court pilot and consider wider rollout.

POLICING AND COMMUNITY SAFETY IN WALES



What we've done:

Worked with Wales' four police forces to ensure successful enforcement of Covid-19 regulations.

Invested over £22m per year to fund 600 Police Community Support Officers in Wales.

Provided funding to establish the Wales Safer Communities Network.

Engaged with policing in Wales on joined-up work to address VAWDASV and peer-on-peer sexual harassment.

Produced a Code of Practice on Ethical Employment in Supply Chains.

Pursued the provision of UK Government funding for police apprenticeships.

Established the Go Safe / the Wales Road Casualty Reduction Partnership to support 20mph pilot areas and 50mph low emissions zones.

Worked with police forces on suicide prevention and reduction strategy.

Created the post of all-Wales Wildlife and Rural Crime Coordinator.

What we're planning to do:

Pursue the devolution of policing in discussions with the UK Government.

Fund out of court parenting support scheme for parents who use physical punishment.

Re-commission the Wales Hate Support Centre for a further 3 years.

CRIMINAL JUSTICE: DEVOLVED FUNCTIONS

What we've done:

Jointly agreed a Partnership Agreement for Prison Health.

Published the Framework to support positive change for those at risk of offending in Wales, developed jointly with HMPPS in Wales.

Agreed an All Wales Protocol to reduce the criminalisation of care experienced children and young adults.

Developed a revised service specification for the Forensic Consultation and Treatment Service (FACTS) for young people in the justice system.

Funded Promoting Positive Engagement for Young People at Risk of Offending to provide preventative and diversionary support for children within or at risk of entering the youth justice system.

Designed and implemented 'Supporting Transition of Military Personnel' (SToMP) project to support veterans caught in the criminal justice system.

What we're planning to do:

Take forward the Accommodation in Wales Strategic Framework.

Increase the capacity of Housing First services across Wales, including for those who are in prison.

Take forward our responsibilities under the Partnership Agreement on Prison Health, including agreed standards for mental health services, development of a new Substance Misuse Treatment Framework for prisons and work on Medicines Management.

Publish and implement a Wales Prison Education Policy.

Ensure that young people in the secure estate can access and benefit from the support available through the Young Person's Guarantee.

Explore the development of targeted employability support for those due to leave the prison estate.

Explore the opportunity of prisoners being able to access other employability programmes whilst still in prison.

Keep following through on the recommendations in the evaluation of the SToMP project.

CRIMINAL JUSTICE REFORM PROGRAMMES



What we, and partner organisations have done:

Agreed a framework to support positive change for those at risk of offending in Wales.

Agreed and progressed implementation of Women's Justice and Youth Justice Blueprints.

Embedded diversionary services for women across Wales.

Delivered and evaluated Women's Pathfinder initiative.

Established Women's Pathfinder Case Conferences in each probation delivery unit in Wales.

"Visiting Mum" service for women held at HMP Eastwood Park and HMP Styal.

Launched a Sentencer Engagement Strategy, including training for professionals.

Agreed a vision for Welsh children in the secure estate.

Piloted alternative approach to remanding children in police custody.

What we're planning to do:

Open the first Residential Women's Centre as a pilot.

Consider what can be done to further the use of the Youth to Adult Transitions principles and guidance.

Develop work on future models for secure youth provision in Wales.

Engage in work with partners to reduce the number of children held on remand.

Develop a practical prevention framework for youth justice, identifying and further embedding existing good practice and collaboration.

Further embed a trauma-informed approach in youth secure environments in Wales.

Push for a problem solving court pilot in Wales.

CIVIL AND ADMINISTRATIVE COURTS AND TRIBUNALS IN WALES



What we've done:

Commissioned the Law Commission to review the devolved tribunals.

Started to develop the detailed policy to take forward reform of the devolved tribunals in Wales.

What we're planning to do:

Create a unified first tier Tribunal for Wales as part of a structurally independent Tribunal Service.

Create an Appeals Tribunal for Wales.

Transfer appeals against school exclusions to the new first tier Tribunal (subject to consultation).

Expand the role of President of Welsh Tribunals.

Explore the most effective production and publication of Welsh tribunals data.

Prepare for the impact of Mental Health Act reforms on the caseload of the Mental Health Review Tribunal for Wales.

Engage with stakeholders to take forward recommendations of the Commission on Justice in Wales to co-ordinate and rationalise civil and administrative dispute resolution in Wales.

Discuss with UK Government the Thomas Commission recommendations relating to coroners' services.

ACCESS TO JUSTICE



What we've done:

Introduced the Single Advice Fund (“SAF”), with annual funding of c.£11m, supporting advice services across Wales to some 120,00 people annually.

Enacted the Legislation (Wales) Act 2019 to make Welsh law more accessible, clear and straightforward to use.

Published our first programme of activity under the Act, setting out our commitment to projects to achieve that goal over the life of the Senedd.

Produced a range of guidance on Covid-19 regulations.

What we're planning to do:

Evaluate the SAF and examine the feasibility of an unstructured grant-funding stream.

Report on progress against our programme to improve the accessibility of Welsh law.

Work with the Law Commission of England and Wales to identify further projects relating to Welsh law.

Make the case for the evaluation of outcomes of remote hearings and for a strategy for remote and physical access to courts in Wales.

Keep making the case for the fuller implementation of the recommendations of Sir Christopher Bellamy's Independent Review of Criminal Legal Aid.

Work with the legal professions to expand public legal education and identify how we can best support pro bono services.

Oppose any proposals that will reduce the level of rights protection in the Human Rights Act.

THE LEGAL SECTOR AND ECONOMY OF WALES



What we've done:

Worked with the legal sector to establish the Law Council of Wales.

Invested £3.9 million of European Regional Development Funds in the Legal Innovation Lab Wales.

Provided funding to enable legal practices in Wales to gain cyber security accreditation.

Issued a new apprenticeship framework to support two new CILEX qualifications in Wales, at paralegal and advanced paralegal levels.

Supported an amendment of the Civil Procedure Rules to require claims brought in the Administrative Court against Welsh public bodies challenging the lawfulness of their decisions to be issued and heard in Wales.

What we're planning to do:

Work in partnership with the Law Council of Wales and the wider legal sector to identify key actions to improve the sustainability of the legal sector in Wales.

Commission a workforce skills needs analysis to consider the case for funding solicitor apprenticeships.

Take forward a working group on growing the public law Bar in Wales.

Continue to make the case for an appropriate replacement for Cardiff Civil Justice Centre.

GOVERNANCE, CONSTITUTIONAL ISSUES AND THE LAW OF WALES



What we've done:

Created the Cabinet Sub-Committee on Justice in response to the Commission on Justice in Wales' recommendation for clear and accountable leadership on justice.

Collaborated with other justice agencies to secure the best outcomes for Wales under the current devolution settlement, including the Policing and Partnership Board for Wales, the Criminal Justice Board for Wales and the Blueprints for Youth Justice and Female Offending.

Established inter-ministerial dialogue with the UK Government on the recommendations of the Commission on Justice in Wales.

Welcomed the Legislation, Justice and Constitution Committee's oversight of justice matters, providing a point of accountability to the Senedd.

What we're planning to do:

Continue to collaborate with other elements of the justice system, including the proposed four UK nations inter-ministerial group on justice.

Pursue the case for guaranteed Welsh representation on the Supreme Court.
