



ORAL EVIDENCE SESSION

DATE: Friday, 25 July 2013

LOCATION: Commission Office, Cardiff

COMMISSIONERS PRESENT:

Paul Silk (Chair)

Nick Bourne

Rob Humphreys

Trefor Jones

Eurfyl ap Gwilym

Helen Molyneux

Noel Lloyd

THE FOLLOWING GAVE EVIDENCE:

Professor Rod Morgan, Professor Emeritus, University of Bristol and Visiting Professor at the London School of Economics, the University Police Science Institute, University of Cardiff and the University of Sussex; and former chair of the Youth Justice Board for England and Wales (2004-7).

Juliet Lyon CBE, the director of the Prison Reform Trust.

Sarah Dew, Wales representative on the Board of Trustees of the Magistrates' Association.

Gavin McLeod, Secretary of the Welsh Committee of the Administrative Justice and Tribunals Council (WCAJTC).

This note, prepared by the Secretariat and agreed with the witnesses, captures the key points of the discussion.

1. The panel outlined their views on devolving various aspects of the justice system.
2. On prisons, it was noted that the current system had high levels of imprisonment and reoffending. While the UK Government was introducing measures to tackle reoffending, there were doubts as to how effective the measures would be in reducing the prison population. Devolution would open up different policy opportunities. Close coordination with devolved authorities was also crucial. There were examples of good practice in Wales, but devolution would enable better alignment of policies. A Welsh system would also be smaller and easier to manage, both from the point of view of staff and [offendersinmates](#); Scotland and Northern Ireland exemplified this. One problem with devolution was that the current system was highly integrated across England and Wales. There was



currently an outflow of prisoners to England, although this would be reversed for male prisoners with the construction of the new prison in north Wales. Managing these imbalances would be difficult in a devolved Welsh system; and creating a self contained system would be expensive.

3. On the youth justice system, although this covers England and Wales there [were](#) already quite a few distinctive Welsh features, more so than with prisons, which devolution could build on. Relations with local authorities were important, including in relation to funding where their role was increasing. There was a good case for devolution based on better alignment of devolved and non devolved policies, and opportunities for policy diversity. Professor Morgan explained that his earlier report to the Welsh Government had noted that Welsh costs per head of population were higher than England. However, these figures tended to change over time; and second, this problem could be met by ensuring transfers of funds were based on existing levels of spending, not a Barnett population share.
4. On probation, there was already a degree of administrative devolution, which full devolution could build on; [f-or example, a Welsh Government might choose not to reform the probation service in the way the Government in London intended.](#) On the other hand, probation and prison services were very closely linked, so it would be important to ensure continued coherence between the two.
5. On the magistrates' courts, [Ms Dewit was](#) noted that there were substantial benefits in being part of a larger England and Wales system, including common guidelines, training and economies of scale. In addition, any change would need to be considered in the context of the court system as a whole. It was also noted that the magistrates' court system was not found in the same form elsewhere in the UK or abroad. Whether a devolved system would continue in its current form was an open question.
6. On tribunals, it was noted that the basic principle was that in devolved policy areas, appeal tribunals were devolved and in non devolved policy areas they were non devolved. This has enabled the Welsh Government to develop a distinctive approach in devolved tribunals and represented an embryonic Welsh justice system. While the system worked reasonably well on the whole, there were a number of issues. Because there was no Welsh justice department to oversee Welsh tribunals, the Welsh Government had introduced a central unit in the Permanent Secretary's department. There was a perception by some that this did not introduce a sufficient degree of independence from the policy departments. In addition, the devolved/non devolved boundary could cause problems. For example when council tax benefit was devolved, it was only realised fairly late in the day that this would necessitate introducing a devolved appeals process.