



Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru
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28 February 2022

Dear Huw,

Thank you for your letter of 28 January to both me and the First Minister setting out the outcome of the Committee's scrutiny of the Welsh Government's draft budget for 2022-23 as it relates to justice and legislative activities. I am responding on our joint behalf.

At the outset, I would like to thank the Committee for its on-going interest in our resourcing of justice related and legislative activity. The First Minister and I have provided information on the issue to the Committee by letters dated 10 and 17 January and 22 February. I appeared before the Committee on 17 January and I look forward to doing so again on 28 February as the Committee continues its work.

Turning to the recommendations and questions set out in your letter, I can reply as follows:

Recommendation 1: The Welsh Government should explain how it will monitor and evaluate the effectiveness of funding allocated within the Justice Commission in Wales BEL.

Recommendation 2: We would welcome greater clarity and details on what work to develop and publish a justice work programme will be delivered from within the Justice Commission in Wales BEL in 2022-23.

Recommendation 6: The Counsel General should commit to an annual report highlighting progress in delivering the justice work programme and evaluating outcomes against spending in relation to all individual components, highlighting also the contributions of relevant organisations as part of this process.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The Cabinet Sub-Committee on Justice was established to:

- provide strategic leadership for justice functions currently devolved to Wales;
- direct all governmental activity in response to the report of the Commission on Justice in Wales;
- ensure synergy across portfolios to ensure a coordinated approach to justice matters;
- agree Welsh Government positions on justice initiatives arising from the UK Government; and
- lead discussions with the UK Government on devolution of justice.

The Welsh Government's Justice Policy Division supports the Cabinet Sub-Committee in all of these functions, allowing the Sub-Committee to oversee activity across Welsh Government. Within the division, the majority of staff work on activity that contributes directly to the Programme for Government commitment to pursue the case for the devolution of policing and justice. It is this work – following on from the Commission on Justice in Wales – which is funded through the Justice Commission in Wales BEL.

This work includes both the creation and monitoring of the overall work programme, and also leading on the delivery of particular elements of the programme. For example, much of the Welsh Government's activity in seeking to strengthen Wales's legal sector is led by the staff funded from this BEL, such as the work to establish the Law Council of Wales and work that is being done to consider the case for solicitor apprenticeships; but these and other actions to strengthen the sector also require working closely with other parts of Welsh Government responsible for areas such as business development, further and higher education, procurement of legal services and more.

As indicated in my appearance before the Committee, this BEL also includes the staff who are working on proposals for reform of the tribunals, following the report of the Law Commission. Again, this is an important part of our response to the Commission on Justice in Wales and our pursuit of the case for devolution of justice – which, as I said to the Committee, is not just done by talking about devolution, but also by demonstrating our approach and our values through the actions we are taking.

In terms of monitoring and evaluation, the publication in the spring will set out our programme of justice-related activity, building on the initial work programme which the Committee has previously seen. This will provide a basis for both internal and external monitoring of progress. Internal monitoring of progress will be overseen by the Cabinet Sub-Committee, supported by the Justice Policy Division. Individual ministers and their officials will of course be responsible for monitoring and driving progress on individual elements of the overall work programme, with the Minister for Social Justice having a particularly important role as a large part of the activity falls within her portfolio or is closely related to it.

Evaluation of individual elements of the overall programme is ongoing, at the appropriate points – for example, plans are in place to evaluate the Family Drug and Alcohol Court pilot. We will evaluate the effectiveness of the specific funding in the Justice Commission BEL as we monitor progress against the Programme for Government commitment. However, in terms of allowing for external monitoring of progress, I am happy to make the commitment that we will bring forward an annual report setting out progress against the objectives in the programme of activity we plan to bring forward in our spring publication.

Recommendation 3: The Welsh Government should provide more detail about how this £4.2 million is used for that administration and support. In particular, we would welcome information about how much funding is allocated or set aside for improving remote access for citizens, investing in new technology and maintaining and improving physical and built infrastructure.

In the current financial year, the £4.2 million budget for the Welsh Tribunals is allocated between tribunal running costs including the costs associated with hearings (£2.9 million) and staff salaries which support the administration of the six Welsh Tribunals (£1.2 million). The budget allocation does not make specific provision for improvements to remote access for citizens and the physical and built infrastructure.

The President of Welsh Tribunals in his Annual Report for 2020-21 and in evidence to the Committee on 1 November 2021 has reported that the Welsh Tribunals have been able to operate remotely, and to do so successfully, in response to the pandemic. It is to the credit of the President, judicial leads, tribunal members and the staff of the Welsh Tribunals Unit that they have been able to make use of technology to ensure cases have been able to progress in the face of difficult circumstances.

One of the President's priorities, set out in the President's Annual Report, is to consider the way in which the Welsh Tribunals should operate going forward and the balance of how they should do so working remotely and face-to-face.

Recommendation 4: The Welsh Government should work toward disaggregating spending on justice in future budgets. For each BEL identified in the First Minister's letter of 10 January, the Welsh Government should identify relevant funding targeted at justice-related work. We believe this would be beneficial not just for scrutiny, transparency and accountability, but also for the Welsh Government in delivering better justice outcomes. We also see this process as being important in readiness for any future devolution of justice functions, when such an approach would be essential.

We publish significant amounts of information as part of our draft budget but we recognise there is always more we can do to improve transparency, as recognised in our annual Budget Improvement Plan. We also recognise the Committee's point that it is useful to the Welsh Government to be able to understand more fully the volume of its own expenditure which goes towards supporting the delivery of justice. As part of the on-going justice transformation programme, we will explore the ways in which we can improve the level of information we provide about justice expenditure.

Recommendation 5: The justice work programme should contain measurable actions and specific programmes for delivery that are fully costed.

We have noted this recommendation and will bear it in mind in the context of the preparation and future monitoring of our justice publication, referenced above.

Recommendation 7: The Welsh Government should provide a detailed breakdown of funding for advice services and should evaluate outcomes against spending on advice services as part of its annual report on justice.

The Welsh Government's commitment to supporting advice services is being maintained through the Single Advice Fund ("SAF"). We agree with the Committee that it is important to evaluate the effectiveness of spending through this fund, and intend to commission independent research to review its effectiveness as a delivery model. The research will focus on whether the SAF is achieving its key objectives, including if the SAF is:

- encouraging better collaboration amongst providers to improve the efficiency of service planning and delivery;
- promoting early access to advice services to vulnerable groups; and
- ensuring that people accessing advice are given opportunity to develop resilience to future social welfare problems.

This review will also consider findings from the Commission on Justice in Wales, which queried whether the approach of a single fund, founded upon collaborative partnership delivery model, might be a barrier to niche advice providers accessing Welsh Government funding; and it will of course also take into account the impacts of the pandemic. This work is expected to begin in April and report in the autumn so as to inform decisions for future funding, and we also note the Committee's recommendation that the outcome of that evaluation should form part of the Welsh Government's annual report.

Recommendation 8: In order to provide us with some baseline data, it would be helpful if the Welsh Government could provide details, for the current financial year of:

- a. the number of FTE staff it employs with a legal role;***
- b. the number of FTE primary legislative drafting lawyers it employs;***
- c. the number of FTE departmental lawyers that are employed and of those, how many either draft policy instructions for Bills or draft subordinate legislation;***
- d. how many FTE staff have been involved in drafting subordinate legislation relating to EU exit and coronavirus regulations;***
- e. how many other FTE staff, specialist or otherwise, are involved in the preparation of legislative proposals;***
- f. a view on how the information provided in relation to a to e above compares to previous financial years;***
- g. any other baseline data that the Welsh Government would deem to be useful.***

Recommendation 9: It would be helpful if the Counsel General could set out how much resource is currently allocated to deal with the drafting of legislation relating to EU exit and coronavirus regulations.

As I explained in my letter of 22 February, the work to deliver the legislative programme is an element of the work of the Government as a whole. Consequently, there is not a separate resource allocation for that activity: instead resource is allocated on a portfolio basis. The Government does not keep records of the numbers of all staff or FTEs working on legislation and given that many staff work on legislation as part of a wider role, this would not be a reliable reflection of resources allocated to legislation in any case.

Recommendation 10: In addition to providing the information requested in our letter to the First Minister of 10 December 2021, we would be grateful if the Counsel General could detail the resources he intends allocating and the programmes he will be introducing in the next financial year and subsequent financial years, to ensure that the Welsh Government has sufficient resource to deliver the Welsh Government's legislative programme and to address the challenges he identifies.

I set out in my letter of 22 February the steps the Government is taking to ensure we manage the pressures on our capacity to legislate.

Yours sincerely,

A handwritten signature in blue ink that reads "Mick Antoniw". The signature is written in a cursive style and is positioned above a short horizontal line.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution