

Huw Irranca-Davies MS

Legislation, Justice and Constitution Committee
Cardiff Bay
Cardiff
CF99 1SN

MoJ ref: ADR100316

3 November 2022

Dear Huw,

ACCESS TO JUSTICE: SUMMARY OF ENGAGEMENT RESPONSE

Thank you for your letter of 12 July to the then Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice, the Rt Hon Dominic Raab MP, in your capacity as Chair of the Senedd Legislation, Justice, and Constitution Committee, regarding the paper '*Access to Justice: Summary of Engagement*'.

In responding I will take each of the subjects raised in the paper in turn. I shall of course be happy to discuss each of them at the rescheduled evidence session.

Attracting and Retaining Talent

The *Access to Justice Summary* argues that challenges in recruiting and retaining staff are, at least in part, due to the impact of the pandemic on working practices and the increase in choices that this offers to junior and mid-range legal professionals, who are opting for better-paid roles in London rather than ones in Wales. The issue of the impact of market forces is not new, nor unique to the legal profession. However, the UK has a strong legal sector jobs market and there is a large, highly skilled workforce which Welsh firms can draw upon. Welsh legal services benefit enormously from being part of the internationally renowned England and Wales legal system. The Government is committed to promoting the UK-wide legal sector and legal services in all three jurisdictions – boosting jobs and the economy in Wales as well as in England, Scotland, and Northern Ireland.

Impact of the Legal Aid, Sentencing, and Punishment of Offenders Act 2012

Access to justice is a fundamental right. Last year we spent £774m on civil legal aid across England and Wales to support the most vulnerable, ensuring they can access justice effectively. We are spending around £8m on expanding legal aid provision through the Nationality and Borders Act and are injecting more than £10m a year into housing legal aid through our reforms to the Housing Possession Court Duty Scheme.

Regarding the capacity of providers, the Legal Aid Agency monitors capacity in the legal aid market and the provision of services, taking action when gaps appear. Wherever someone is in England or Wales, legal advice remains available through the civil legal advice telephone service, subject to eligibility criteria.

Whilst legal aid is central to access to justice, the Government recognises the vital role that charities in the advice sector play in helping people with their legal problems, which is why since 2020 we have delivered additional investment of over £10m for not-for-profit organisations who provide specialist legal advice, such as the Law Centres Network. This includes in excess of £600k of funding for legal support providers in Wales, allowing them to help those who need assistance with social welfare related legal matters, which has been provided through the Litigants in Person Support Strategy, the Legal Support for

Litigants in Person grant, the Covid-19 Specialist Advice Services Scheme grant and the Sector Sustainability Grant.

The MoJ continues to engage with representative bodies and providers within the sector to increase understanding of the challenges providers currently face and is considering the long-term sustainability of civil legal aid. We recognise that we need to take a whole system approach to these important issues and will say more on this soon.

Courts and Tribunals

It is argued in the *Access to Justice Summary* that significant travel times in parts of Wales and inadequate public transport infrastructure mean that the location of courts in Wales acts as a barrier for people wishing to access justice. The pandemic has demonstrated the need for remote participation in hearings and, going forward, we want the effective use of audio and video technologies to remain an integral part of the justice system alongside traditional in-person hearings. Video and audio technology has the potential to increase the capacity of the courts, make the process less intimidating for vulnerable people, and improve transparency and accessibility.

In June, by means of the Police, Crime, Sentencing and Courts Act 2022, we extended remote observation of all court and tribunal hearings across England and Wales. This measure complements the provision of traditional public galleries to ensure our justice system is even more accessible and transparent. It will particularly benefit court reporting by the media, but this is not indiscriminate broadcasting: those wishing to observe a hearing remotely must request access and be identifiable to the court. A judge will consider the application and decide what is in the best interests of justice on a case-by-case basis. Any observer who tries to record or broadcast a hearing they are watching could face a fine of up to £1,000 or, if found in contempt of court, be sent to prison for up to two years. As well as the news media, remote observation will benefit those who are less able or willing to sit in a physical courtroom.

The *Access to Justice Summary* emphasises the challenges associated with the provision of information in Welsh. We strive to ensure that court staff provide an excellent service in ensuring that people have access to services in Welsh, and HMCTS works closely in accordance with its Welsh Language Unit to translate court documents specifically prepared for proceedings. This also applies to digital applications, which are shared with the Welsh Language Unit by the Courts and Tribunals Services Centre. With regards to issuing matrimonial proceedings in Welsh, the No Fault Divorce Welsh service has been live for several weeks and to date we have had one petition.

Technology

The MoJ sees the growth of lawtech and innovation in the delivery of legal services as vital to a flourishing legal sector. Lawtech has enormous potential to improve the provision of legal services in the UK through greater efficiency, enabling new ways of delivering legal services and being more responsive to users' needs. The Government is supporting the growth and adoption of lawtech through the LawtechUK programme delivered by Tech Nation, launched in 2019 with an initial £2 million investment. We recently announced an additional £4 million of funding to continue this support into 2025 and intend to launch a competitive process shortly to identify a suitable provider. The Government recognises that smaller law firms may face additional barriers to innovating and adopting technology, so the objectives for the second phase of funding include increasing innovation and the adoption of lawtech across UK legal services.

The government has invested £1.3bn across all jurisdictions of the courts and tribunals as part of the HMCTS Reform Programme to transform the justice system, introducing 21st century technology and online services to improve efficiency and modernise the courts. These digital reforms and simplified services are removing simple cases from court as well as cutting down unnecessary paperwork. The completion of the HMCTS reform programme will modernise and raise performance and improve access

to justice in the civil courts. Over 90% of civil claims will be digitised by March 2023. So far, over 330,000 claims have been issued through the Online Civil Money Claims service, with user satisfaction at 95%.

We are aware of course that some service users feel digitally disenfranchised and excluded. The MoJ is taking steps to address this, including by building digital court services around user needs to ensure full accessibility, providing freely accessible support for users who need help to access HMCTS services online, and providing digital support to complete online applications by *We are Digital*, a digital inclusion training provider.

Accessibility of Welsh Law

The MoJ wants everyone across the United Kingdom to have access to justice. We note the issues raised in the paper regarding the online property Q&A tool and are looking into this.

More widely, we recognise the need for a collaborative approach between the MoJ and the Welsh Government to ensure that Welsh law is accessible, and we are keen to work with our colleagues in the Welsh Government to ensure legal rights are clearly signposted for both reserved and devolved powers.

Commission on Justice in Wales

The MoJ has been clear that, notwithstanding the UK Government's difference of position from that of the Welsh Government regarding the devolution of justice, we are keen to work with the Welsh Government to take forward some of the recommendations which have the potential to improve justice outcomes in Wales, provided they do not require a change to the devolution settlement.

The MoJ and Welsh Government have been working closely to identify and address those recommendations which we both see as a priority. With regard specifically to the points made in the paper, the MoJ has always seen as a weakness the fact that the Commission's report was not costed, so the financial implications of its recommendations will need to be assessed properly before any decisions are taken about potentially taking them forward.

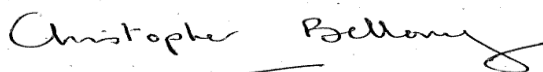
Hybrid Working

Throughout the pandemic, the majority of HMCTS staff continued to attend the workplace to ensure that frontline services were maintained. Some roles were able to continue remotely, either partly in offices or completely from home.

HMCTS has developed guidance and principles to introduce hybrid working across the workforce. These are based on business need but they also balance individual circumstances so that those who would benefit from more flexible arrangements can do so. Every role in HMCTS has a requirement to attend the workplace at least some of the time, whether that be to deliver particular objectives, meet with a team or stakeholder, or for collaborative working purposes. Indeed, for some roles, remote working isn't possible at all. HMCTS has learnt a lot over the last few years and will continue to explore where there is potential to enable remote working whilst continuing to deliver an effective service.

I look forward to meeting you and your colleagues on the Legislation, Justice, and Constitution Committee.

Kind Regards,



LORD BELLAMY KC