

Thank you for asking me to respond to the evidence of Lord Bellamy, the Parliamentary Under Secretary of State for Justice, to the Welsh Parliament's Legislation, Justice and Constitution Committee.

It is valuable that Lord Bellamy has come to give evidence, in order to initiate a much-needed public dialogue between Cardiff and London on the issue of justice. It is also valuable to note a tone that, on the whole, respects and recognises the need for collaboration between the two governments, and the fact that there are specific considerations in Wales that require specific treatment from the Ministry of Justice.

Nevertheless, his response to the problem of the 'jagged edge' is not convincing. One cannot make a comparison between the difficulties of working across (1) on the one hand, the boundary between the operational departments of a central Government and those of a devolved Government, and (2) on the other, the boundary between the various operational departments of a central Government alone. When all is said and done, the departments of the central Government are all accountable to and under the ultimate executive control of the same authority – the Prime Minister and Cabinet in London – and they have the same power and the same *locus standi* as each other. That enables policy and operational co-ordination, and it also ensures that any disputes can be easily resolved. On the other hand, devolved departments are accountable to and under the executive control of the First Minister of Wales and the Cabinet in Wales. They do not have any power centrally except to try and influence and persuade. This lack of symmetry in terms of power is one of the main sources of practical difficulties created by the jagged edge. Furthermore, of course, the London Government, ultimately, is democratically accountable to the Parliament of the United Kingdom, while the Cardiff Government is accountable to Senedd Cymru.

The following statement by the under secretary of state about one of the recommendations of the Thomas Commission perhaps demonstrates the difficulty of the power asymmetry:

*There is one [recommendation] that I think is unlikely to proceed, which is a proposal to change the age of criminal responsibility for a child, where the Government's view is that we should have one age across England and Wales. (para 52 of the transcript)*

The recommendation in the Thomas Commission report (para 4.195) was made in the context of a reasoned, evidence-based discussion on how Welsh policy and operation emphasise the need to adopt a preventative approach to dealing with youth offending. If justice were to be devolved to Wales, Senedd Cymru would be able to change the age of criminal responsibility, and also present alternative approaches to dealing with young people, as in Scotland. There was no attempt from the under secretary of state to offer reasons against such a change (whether in Wales or in England and Wales), nor any attempt to deal with the recommendation in the context of broader Welsh Government policy. Instead, what was received was an *ex cathedra* response that his position of power enabled him to make.

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