

Lord Bellamy KC  
Parliamentary Under-Secretary of State for Justice  
Ministry of Justice

11 April 2023

Dear Lord Bellamy,

## Evidence to the Legislation, Justice and Constitution Committee

Thank you for your letter of 14 March 2023 in response to my letter of 16 December 2022 which followed your appearance before my Committee on 5 December 2022.

As I explained in my previous letter, we sought the evidence of our stakeholders who have an interest in or work within the justice system in Wales on the evidence you provided; I have used the evidence we received within my response below.

I am grateful to you for providing an outline of the Ministry of Justice's progress towards responding to the Thomas Commission's recommendations. With regard to the accessibility of digital court services, Race Council Cymru brought to our attention research which suggests that the movement to online advice services during the Covid-19 pandemic potentially disadvantages groups that are digitally excluded. I would therefore be grateful if you could provide further information on the steps you are taking to ensure that movement towards such services does not disadvantage digitally-excluded groups.

Although it is encouraging that you note the importance of data for underpinning decisions about the justice system, the committee is disappointed to hear you say that you are not aware of any areas in which further disaggregation of data is required to improve outcomes. Since the Thomas Commission reported, the issue of the limited disaggregation of data about the justice system in Wales has been raised by the Welsh Government, academics at Cardiff University and in a recent Westminster Hall debate. It is clear that this remains an issue of concern. We would therefore be grateful if you could

share the list the Welsh Government has shared with you of areas in which Wales-specific data is not published, and explain which barriers prevent you from publishing such data routinely.

Race Council Cymru also raised evidence of barriers facing disabled people seeking to access justice, and evidence that court modernisation – including the rapid roll-out of remote hearings – might negatively affect participation for certain groups. I would be grateful to hear if you have undertaken, or if you are you planning to undertake, research to investigate these issues in further detail.

Race Council Cymru also shared with us its assessment that barriers remain to the recruitment, retention and the career development of individuals from Black, Asian and minority ethnic groups within the legal profession, and lower levels of staff wellbeing exist among those groups. It also remarked about levels of trust in the criminal justice system:

*"... mistrust among Black, Asian, and Minority Ethnic communities often stems from the evidence and/or experience of unequal treatment in the CJS. Trust should therefore be (re)built as outcomes improve, with the entire programme of work to tackle race disparity trained on this objective. However, given the systemic nature of the reforms and the need to unpick historical relationships with the CJS, it may take some time for improved outcomes to have the desired impact on trust."*

In addition, it notes that "there is evidence that Black, Asian, and Minority Ethnic and foreign national women can have distinctly different experiences or outcomes at some stages of the Criminal Justice System in comparison to other offenders, and that these may differ between faiths and cultures."

I would therefore be grateful if you could also set out the steps you are taking:

- to help individuals from Black, Asian and minority ethnic communities to overcome barriers to recruitment, retention and career development within the legal profession;
- to increase levels of trust in the criminal justice system, especially among Black, Asian, and minority ethnic communities; and
- to reduce any disparities in experiences of those communities of the criminal justice system, in comparison to the experiences of other communities.

It is encouraging to hear that you are investigating options to improve the experience of those who use and work in the Cardiff Civil and Family Justice Centre, in light of repeated concerns we have heard about the condition of the centre. We would be grateful if you could provide us with timely updates on how this work progresses. Stakeholders, including participants in our engagement work, have raised concerns about the accessibility and deterioration of court buildings, in addition to a mixed experience of remote justice. In the same vein, Race Council Cymru is calling for adequate funding across the justice system and a greater focus on early intervention and "diverting people away from the system".

Race Council Cymru also notes that the Legal Aid Agency monitors capacity in the legal aid market and the provision of services, and takes action when gaps appear. It has asked us to seek clarity from you on how this monitoring work is undertaken, and what measures are being put in place “to ensure consistency across the board”; I would be very interested to hear your response.

Finally, Professor Emyr Lewis from Aberystwyth University shared with us his view of the comments you made during the evidence session in respect of what has been described as the “jagged edge” of the Welsh criminal justice system. He argues:

*“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.”*

As a Committee, we believe much more needs to be done to overcome the practical difficulties created by the jagged edge which exists within the justice system in Wales. These difficulties have been expertly and eloquently analysed by Professor Lewis and other distinguished and learned observers of the operation of the justice system. We therefore impress on you the importance of continuing to engage with the Welsh Government, and to proactively work with the Treasury, to find ways in which resources can be more effectively shared to ensure a constructive joint approach to overcome these barriers which currently detract from the beneficial outcomes we would all want to see within the justice system in Wales.

I am copying this letter to the Chair of the Equality and Social Justice Committee.

Yours sincerely,

*Huw Irranca-Davies*

Huw Irranca-Davies

Chair

