

# Briefing note – policy developments in Wales

## Commission on Justice in Wales

The Commission reviewed the operation of the justice system in Wales and set a long-term vision for its future. It concluded that the people of Wales are being let down by the system in its current state and that major reform is needed to the justice system and the current scheme of devolution.

The LSB provided written and oral evidence to the Commission and this is referred to at several occasions in the main report.

The key findings relevant to legal services regulation include:

- Justice policy and funding should be devolved to Wales so that it aligns with its distinct and developing social, health and education policy and services and the growing body of Welsh law. The law applicable in Wales should be formally identified as the law of Wales, distinct from the law of England
- The present system under which the legal professions practise and are regulated should continue on an England and Wales basis as this is consistent with an open, competitive and innovative approach to the provision of legal services. However, the report notes a need for regulators to have accountability to the Welsh Assembly. Under the current scheme of devolution the reports suggests that the regulators should develop a relationship with the Assembly given the role the Assembly has in relation to the justice system.
- Legal aid cuts have hit Wales hard and resulted in: advice deserts in rural and post-industrial areas; a serious risk to the sustainability of legal practice, especially traditional high street firms; and increases in litigants-in-person.
- The feasibility of a low cost and effective resolution method for civil disputes through the use of a comprehensive ombudsman scheme, taking into account the online court, should be examined in Wales
- Although parts of the legal professions in Wales are strong and competitive, opportunities to strengthen the legal sector more broadly have been missed. There is a need for a stronger focus from the Welsh Government and better coordination within the professions. South Wales should be promoted as a legal centre and the needs of rural and post-industrial areas of Wales should be approached by a clear strategy.
- Greater focus is needed in law schools on 'law tech', which should be taught to all students and the professions. The Welsh Government should provide strong support for investment in technology and establishing a technology-based nearshoring centre should be an objective
- A Law Council should be established to promote the interests of legal education and the awareness of Welsh law. The Welsh Government should lead the development and implementation of an action plan to promote and support public legal education, particularly for children and young people
- The current justice system does not consistently treat the Welsh language on a basis of equality with the English language. There is a lack of teaching materials on Welsh law and in the medium of Welsh. The place of Welsh law

and the distinctiveness of the law in Wales should be properly reflected in professional and continuing legal education and training. Professional legal education for those wishing to practise in Wales must be available in the Welsh language with the phased introduction of the availability of all professional examinations in Welsh

## **Rapid review of the legal sector in Wales**

This was commissioned by the Welsh Government and conducted by Jomati Consultants. The key findings relevant to legal services regulation include:

- Concerns over the long-term sustainability of the profession with the percentage of young solicitors higher in England than in Wales, while at the same time the percentage of older lawyers is higher in Wales.
- Law firms in Wales are heavily reliant on private client work such as conveyancing (which is dependent on wider economic factors) and areas which are being digitised such as divorce, probate, power of attorney etc
- The Welsh education sector is geared towards the exportation of talent with the supply of graduates significantly exceeding demand
- The profession is generally hostile or indifferent to Welsh Government interventions within the sector, guarding their independence fiercely. However, the review recommends that Cardiff could be promoted as a potential nearshore service centre venue
- The profession appears agnostic about several key elements of the Welsh jurisdictional issue. They could be supportive of justice policy being devolved to Wales but worry that a separate jurisdiction might adversely impact on their business or their right to operate on a cross-border basis into England. They worry about being seen as 'Welsh only' lawyers leading to English clients switching to law firms in England. They also see that divergence of laws could lead to Welsh firms being seen as takeover targets. Another concern is that local capacity is limited and a small gene pool would lead to less quality
- In light of the above Jomati concludes that even if there was a separate legal jurisdiction there should not be a separate regulatory framework at least as a 'matter of urgency'. Not least the profession is too small to make this viable. The report also suggests it would be wrong to create a Wales-only regulator for the solicitors' profession but not for the smaller professions
- Educational institutions are reluctant to teach Welsh law, and there is a reluctance for Welsh law schools to create research materials on Welsh law
- The country's LegalTech and online legal services market barely exists at all [the report was published before the announcement of funding for Swansea University covered elsewhere in the horizon scanning report]

## **Individual legal needs survey**

The research report contains analysis of findings comparing Wales and England. Overall individuals in England and Wales have very similar experiences when it comes to legal needs. There is no statistically significant difference in incidence of contentious or non-contentious legal issues. Similarly, there are no significant differences in measures of legal capability or likelihood of receiving help. There is also consistency in perceptions of the legal system and satisfaction with service.

However, there are some differences. People in Wales (36%) are more likely than those in England (29%) to have had a solicitor as their main adviser. People in Wales are less likely to have searched/obtained prices (18% vs 22%) or details of services (32% vs 36%). Among people who searched for services, those in Wales (61%) are much more likely than those in England (48%) to have found it to be very easy.