



## **Police Federation (Region 7 – Wales)**

**evidence to**

### ***The Commission on Justice in Wales***

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#### **Introduction**

The Police Federation of England & Wales (PFEW) is the staff association for police constables, sergeants and inspectors (including chief inspectors). We are one of the largest staff associations in the UK representing almost 123,000 rank and file officers. We are governed by rules and regulations set by the UK Government.

The PFEW ('The Federation') is submitting evidence to the Commission on Justice in Wales (Thomas Commission) as it feels it is important to give advice on matters that affect the front-line-officer - and ultimately the public who we serve - and so assist government in shaping quality policy, and if necessary, future legislation. It has done so in the past, and will continue to act in this capacity from a position of neutrality.

It may assist the Commission in understanding who and what The Federation is about and this advice is laid out below, with our submission to the Commission thereafter.

#### **The Police Federation of England & Wales**

**Core purpose:** PFEW commissioned an independent review of the organisation, which was led by Sir David Normington GCB (former Permanent Secretary at the Home Office), and as a result our core purpose was amended in May 2014, these changes were completed for the first time since the Federation was formed in 1919, by an Act of Parliament.

The changes came about following a series of recommendations and for it to reflect our commitment to act in the public interest, with public accountability, alongside our accountability to our members.

Following a series of visits to Wales, including at The Senedd and meetings also with former Welsh/UK Ministers and the Welsh Government executive, The Normington Report also concluded with a number of '*Special Considerations for Wales*' which set The Federation on a course of a renewed structure on how it conducts its role within Wales and nationally also.

In fulfilling our statutory responsibilities for the 'welfare and efficiency' of our members the Federation will, at all levels:

- ensure that our members are fully informed and that there is the highest degree of transparency in decision-making and the use of resources.
- maintain exemplary standards of conduct, integrity and professionalism.
- act in the interests of our members and the public, seeking to build public confidence in the police service and accepting public accountability for our use of public money.
- work together within the Federation and in partnership with others in the policing world to achieve our goals.

**Aims & objectives:** The Federation has a statutory obligation to ensure that the views of our members are accurately relayed to governments, opinion formers and key stakeholders. To ensure this we measure the work we do and what we seek to achieve against our organisational aims and objectives.

**Represent and support:** Aim: To represent and promote the interests and welfare of our members, and to support colleagues to achieve the required professional standards.

We do this by:

- meeting our statutory responsibilities
- representing our members' interests in matters of discipline, diversity, health and safety, welfare, pensions, claims and member services and many other issues
- ensuring that representatives have the required skills and abilities to fulfil their role and meet their statutory responsibilities
- providing national and local representation to ensure that our members receive appropriate training to deliver a professional police service.

**Influence:** Aim: To influence internal and external decision makers at local and national level(s) on matters affecting our members and the police service.

We do this by:

- providing clear leadership locally and nationally on issues affecting the membership
- listening to and reflecting issues concerning our members
- maintaining an effective communications strategy
- engaging with all internal and external stakeholders and decision makers
- putting evidence-based information in the hands of decision makers.

**Negotiation:** *Aim:* To maintain and improve the conditions of service and pay of our members.

We do this by:

- actively participating in national, force and local negotiations
- negotiating collectively and on behalf of individual members
- using evidence-based information in our business practices.

### **Advice to The Commission on Justice in Wales**

The Police Federation has, over many years, submitted substantial written and oral evidence including advice with respect to consultations prior to legislation to many bodies including the National Assembly for Wales, Welsh Government, Home Office, varied UK Government and Welsh Government departments, Executive and Statutory bodies, Non Government Organisations, Academia, Studies, Local Government, Police & Crime Commissioners, Reports, Conventions and latterly Commissions.

For Wales, our largest body of work was to submit written and oral evidence to *The Commission on Devolution in Wales* ('Silk Commission') whereby we made 13 recommendations to that Commission that were based solely upon evidence.

We were publicly commended by Sir Paul Silk for the quality of that work and it is that spirit we would wish to give evidence to *The Justice Commission* and to base our advice upon issues that have recently come to light (and indeed are still being progressed) and are reflective, if not central, to the emerging issues that we initially highlighted and gave in evidence to Sir Paul Silk and his Commission.

This submission is not a re-run of our evidence to Sir Paul Silk, it is stand-alone, but draws together, in real-time, actual issues that highlight our concerns on developing policy with which this particular Commission is engaged.

It may prove useful that at this juncture that we underline that the PFEW remains neutral on the matter of devolving policing – our submission here, is not about that matter but does, touch upon it - but we had concluded to The Silk Commission that "*policing could be devolved*" the question of whether or not is "*should be devolved*" is of course a political issue and decision.

Lord Thomas's Commission asks advice on some 14 differing areas of the Justice system. Clearly many of these matters raised, are not police related and we have confined ourselves to issues that are and which we can comment upon from an evidential standpoint.

Indeed we maintain that policing stands – and should remain so – completely stand-alone, if not independent of the Criminal Justice System. To that point it is perfectly reasonable to cite that if any Government decided to devolve policing it could be done without the accompanying the Criminal Justice system (i.e. devolving courts, sentencing, probation, prisons and so forth), however, if the Criminal Justice system were to be devolved in its entirety, then policing would need to follow in parallel.

That all aside, the independence we maintain is of paramount importance, that 'Independence of the Office of Constable' is the bedrock of what we do and albeit there is cross-over in some areas such as Youth Justice, where police forces have concordats and MoU's to assist in operations, the independence of what we do is the core work of policing that must stay outside of the Criminal Justice System, but it has to be said will proffer advice as to how it impacts upon the operational front line if it is seen to be either negative or positive in outcome.

We believe there are THREE areas that we can proffer advice to the Commission.

**Question 3:** *“What problems face the people who work within the justice system in Wales (including policing, prosecution, courts, prisons and probation) and the people who are affected by it?”*

The requirement placed on policing to keep our communities safe requires it to be much more than an enforcement agency. Many of the individuals who the police deal with are known to and routinely access other public service providers.

Many have chaotic lifestyles, suffer significant health issues, predominantly mental health, or have substance misuse issues.

The current mixed landscape of devolved and non-devolved agencies, with potentially conflicting performance measures, is not conducive to delivering the best joined up services for individuals. The public therefore do not have quality standards in public service delivery terms.

The police service is required to deal with non-crime, public safety issues as the 'service of last resort' and invariably these calls are a direct result of service failure by one or other public service and leads to significant inappropriate investment of police resource.

Part of the problem is the absence of a 24/7 response from other partner agencies and this should be addressed as a matter of urgency to ensure all agencies can share information in emergency situations and agree an appropriate shared response.

**Question 7:** *“Are there changes that should be made to the capabilities and effectiveness of the ways in which the police, probation and prisons approach their tasks? What should be done to increase community safety, wellbeing and social cohesion and reduce crime? What can be learnt from other countries where rates of crime and imprisonment are lower?”*

**Answer:** Policing is thought of as being a service primarily responding to 999 calls and accordingly tends to be judged on our response those calls.

The reality is that crime related 999 calls account for a small proportion of police work and the police service regularly and routinely responds to public safety issues arising from service failure by one or other of our statutory partners. In addition significant effort and resource is placed into community safety partnership working alongside both statutory and third sector partners, some of whom are devolved functions and others who are not.

This mixed landscape presents particular challenges in terms of information sharing and line of sight for governance and potentially conflicting priorities.

For example, the Welsh Government has law making powers (including criminal law) and would expect effective implementation, enforcement and sentencing relating to any new legislation but would likely encounter difficulties with non-devolved agencies such as the CPS, courts and police service.

It is our view that devolution of the Criminal Justice System would significantly improve the harmonisation of services and provide a clear sense of identity and direction for all agencies.

Not all matters the police deal with are crime related for example missing persons and increasingly so social issues such as mental health and ad hoc ambulance services, but it is abundantly clear that our effectiveness and operational capabilities have been ham-strung following the 20% cuts to policing and we have consistently voiced our concerns in this regard.

Our role in communities whether it is neighbourhood policing or higher levels of crime and intelligence gathering and confirmation needs basic human resources, in plain terms, boots-on-the-ground and we stand by HMIC's recommendations that our resilience has fallen by circa 8% of the UK Government cuts that impact not only upon the police service but in delivery to quality services to the public.

Police numbers are now at an all time low, equal to those now experienced in 1974 and our ability to fight crime, or have capacity to reduce crime, has been seriously curtailed. The public are undoubtedly at significant risk from increased crimes rates and this expands across every collated recorded crime heading. Interestingly, on 23<sup>rd</sup> May 2018, the new Home Secretary (Sajid Javid MP) recognised that *“The Police Federation have made their point heard on resources”* and added publicly at our annual conference that *“I recognise the increase in demands upon police and that more does need to be done. Long term funding and resources need to be looked at”*.

We have a wealth of peer reviewed evidence, to support the impact that the cuts have had upon our resilience and it is that element alone which is traceable back to the lack of police numbers. This too is shared across the board on public impacts. We would be only too delighted to share that to The Justice Commission in any further evidence it wishes to collate.

In order to increase community safety, reduce crime and to give a service worthy of public confidence, we recommend that policing numbers need to be increased. We believe are attributable to the lack of police numbers to deter and fight such crime.

**Question 8:** *“What impact is the divergence between Welsh and English law having upon sentencing? What impact do you foresee in the future? Should Wales implement a different approach to sentencing than England? If yes, what lessons can be learnt from other jurisdictions?”*

**Answer:** We have been at the vanguard of assisting government(s) on recent and on-going law matters, and advising on Criminal law changes upon matters that truly saddle Wales/England devolved competence, this includes amongst other issues, the current *Offences Against Emergency Workers Bill*, also progressing changes to the law in respect of *Emergency Vehicles driving* and indeed advice to the Welsh Government on the *defence of the removal of lawful chastisement*. These three issues have come to the fore, and together, in a very short timeframe that has proven to be difficult to manage across the divide; but progress is being made.

Of the two former issues, we received overwhelming support from the Welsh Government with proposals that were ready to progress as Wales-only legislation. The support from the UK Government was stark in contrast, however, with now one Bill currently going through Westminster – albeit via a Private Members route - that had initially no UK Ministerial support and another in ‘consultation’ (with a seven year wait and now a possibility of it being addressed in 2 years time) and the latter, on chastisement, likely to be back into the public domain by the end of 2018, it is clear to us, that for matters that affect the police service and the public alike, that the commitment to make policy and law is far better served in timeframes, momentum and a ‘can do attitude’ much better from within Wales than it is in Westminster. But to make such law is not easy, and needs a highly dedicated eye in knowing devolved competence, legal constraints and in turn application of such laws to be understood thereafter by the public, by agencies such as the CPS and indeed upon sentencing.

We do not believe that a divergence in Wales and England law is incompatible but they do present considerable difficulties in their making. Differing laws – including criminal law - have applied across the UK for many years and have not shown any serious problems. This extends in examples, from say Firearms legislation in Northern Ireland, to Drink-driving laws in Scotland.

That said, in the development of such laws (not sentencing) our Wales-only proposals in regards to *Attacks upon Emergency Workers* were to have (in Wales) a 5 year sentence imposed but, through Westminster we currently see a very watered down proposal seeing just 12 months in sentencing terms being debated. We will be seeking an amendment to that law – through Westminster - to increase this to 24 months with plans afoot to monitor its effectiveness to seek a further change to increase it to five years, and at the same time explore how this could be effected as a Wales-only proposal. Had the law been applied separately in Wales we do not consider that there would be problems (or divergence) upon Welsh and/or English law as it impacts upon the perpetrators who committed the crime; we suspect there would be considerable public support for harsher sentencing.

To have a differing law in Wales adds naturally so a furtherance of training needs but also adds to the debate on the creation of a single/unique Welsh legal jurisdiction, the latter is not a subject we can comment upon but nonetheless it is a consideration.

The same focus can be applied also to *Emergency Vehicles driving legislation* whereby protections through being a ‘competent trained driver’ do not exist for police drivers (or any other Emergency driver such as Fire/Ambulance) in road accidents whereby emergency vehicles may, on occasion, become involved. This requires a dedicated approach and seemingly the Welsh Government are supportive of our proposals, whereby there is a degree of understanding but some inertia from the UK Government to change the law and are now consulting upon the matter with a caveat of “*where Parliamentary times will allow*”.

We are not asking for special considerations outside of the law and support sentencing for those who do commit offences outside of a 'careful competent trained police driving'. However it is the application of that law that would be different and if it were to be so in Wales, different to that of England, for a Police body that is an 'England & Wales' police service it would need to be applied differently with Wales-proofing and indeed an understanding of that by say the CPS operating outside of Wales.

Essentially any perceived or actual divergence becomes very complex and micro-managed. PFEW have a quality working relationship with both Police Scotland and PSNI, both these bodies work within a separate legal jurisdictions. To devise new or changes to England & Wales law under the current devolved settlement and with an eye also on a joint legal jurisdiction creates difficulties in the making of law and we come up against those issues consistently, the examples above are reflective and evidenced of this.

**Conclusion:** It is important to recognise that any changes we as a body are progressing, do so as 'a public facing body' and our proposals are articulated to decision makers to benefit the public and police alike – the current position cannot be a sustainable one when we are asked to proffer advice and yet find ourselves tied up within a joint legal jurisdiction and a devolved settlement that is equally incoherent and deeply complex. Good policy and law requires a simple application, not only for the public and legal system to understand but also for enforcement purposes.

**ENDS**

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**1<sup>st</sup> June, 2018**

**[www.polfed.org](http://www.polfed.org)**