

Commission on Justice in Wales
Oral Evidence Session
18th January 2019

Present:	Commission members	Secretariat team
Mark Evans (ME) Paul Hopkins QC (PH) Rhodri Williams QC (RW) Frances Edwards (FE)	Lord Thomas of Cwmgiedd, Chair Simon Davies Professor Elwen Evans QC Dr Nerys Llewelyn Jones Juliet Lyon CBE Sarah Payne CBE Professor Rick Rawlings Professor Peter Vaughan	Andrew Felton, Secretary to the Commission Dave Gordon Chris James Rhys Thomas

Question area: Welsh Government funding apprenticeships in the legal sector

- FE: CILEx believes there is an opportunity to expand legal apprenticeships to increase diversity in the legal sector and retain talent in Wales. Qualifying can't be seen as "one size fits all" and there needs to be lower level apprenticeships feeding into higher level apprenticeships. Apprenticeships should not be seen by employers as a less valuable route into law than the university route. There is demand in Wales for apprenticeships leading to higher level qualifications but there is not a pool of providers at the moment. Employers may be dissuaded from following the apprenticeship route if there are onerous and bureaucratic requirements that relate to funding. Policy and funding models should take these factors into account and if so CILEx supports the expansion of apprenticeships in the legal sector.
- PH: If apprenticeship funding could be used to create means to fund additional pupillages in Wales, particularly in the field of civil law to build the cohort of civil practitioners in Wales, this would be something the Circuit would support. It is important to build the base of practitioners in Wales who could then do work for the Welsh Government. There is a scheme whereby the Inns of Court will fund pupillages if chambers can demonstrate that particular pupillage is an additional pupillage over and above those that chambers provides. The Welsh Government could do something similar and would benefit from that investment in developing talent.
- RW: It might be helpful if arrangements could include secondments into the Welsh Government. There are benefits for those in the early years of their careers and for Government if there are secondment opportunities into Government particularly on the civil side. There is a demand from candidates for pupillages. The difficulty for chambers is not recruiting pupils but in retaining them as they grow their careers, particularly in relation to civil law.
- ME: I very much agree with FE and about the retention of talent in Wales. Funding apprenticeships to develop talent would be supported across the profession. The profession is concerned about retaining newly qualified lawyers. There needs to be clarity around what is meant by "funding", is it a grant or a loan? If a loan what are the terms of repayment? I agree that funding should be put in but the question of what's the incentive for people to stay in Wales needs to be considered and addressed.

Question area: Lessons from regional legal centres in other parts of the UK

- ME: I'm not personally familiar with legal centres such as those in Leeds but the Law Society could give evidence, certainly via the regional managers in Leeds if that would be helpful to the Commission. From the perspective of solicitors, there are some 3,500 practitioners in Wales with the bulk of them in Cardiff, Swansea and Newport. It's not a viable proposition to think about a legal centre in West Wales, for example, because the solicitors are concentrated elsewhere. I'm part of a forum in North East Wales, Wrexham Business Professionals, that draws lawyers, independent financial advisers, surveyors and so forth to promote Wrexham and the wider region as a place for business and to keep work in the area. The forum arranges guest speakers – and

Welsh Ministers Lesley Griffiths AM and Ken Skates AM have attended – and other events. Sir Kier Starmer QC MP is talking at an event in February. The forum is growing in numbers. A legal centre may be viable in South Wales but for it to be viable outside the major cities other professions will need to be represented and participate. The forum in Wrexham is not part of the Law Society, rather it's a grouping of business professionals with a common aim to retain clients in the area. It works well and is growing in numbers. There is a junior section too to encourage younger members of the professions to collaborate and share experiences. It could be a model for elsewhere.

- RW: Most of the barristers in Leeds have links to other chambers in Manchester and Liverpool. Members of Circuit visited Belfast and that city is a shining example of what the Bar can do if it is supported by government and local solicitors. Northern Ireland operates a Library system and we noted it is hard for people starting off in their careers to gain a foothold. But the Bar is thriving there. There is the ability to develop specialities in all areas of law as local solicitors use the Bar without exception.
- PH: The structure in Belfast is different. The Library system brings financial advantages that lowers the cost of practice and makes delivery of legal services better for the people of Northern Ireland. There are some disadvantages for young practitioners and it can be difficult for them to break in and build careers. The Circuit's visit to Belfast was a positive experience. I've invited all heads of chambers and senior clerks to take part in a conference about how chambers can work more collaboratively together in a federation of chambers. We will hold that conference in the next month.
- FE: In my view the important factor is to consider what will work locally to meet client needs. Family law providers, of which I am one, offer a better service if they know the area they serve. There is, for example, a different family dynamic in the South Wales valleys compared to cities. For a legal centre to work, a skilled workforce is needed, especially to attract businesses. If there are more career opportunities in an area there is less need to work away and there is greater talent for consumers. It's important to invest in local skills to attract businesses to Wales and to ensure continuity of supply of the work force. For students, it's often cheaper for them if they can study close to home. The three Regional Skills Partnerships in Wales have an important role to play in promoting enterprise zones for local talent. CILEx is mentioned by the South East Wales Partnership. The market is part of the solution.

Question area: Developing and improving leadership skills within the sector

- PH: Skills are now staying in Wales and in increasing numbers. In the area of family law there are now five full time practising silks, and four in criminal law. The position is less emphatic as regards civil law. We are asking for the Welsh Government to promote Wales-based practitioners to encourage the talent to keep their practices in Wales. There is no leadership training for professionals as a matter of course and I had no training before becoming head of chambers or leader of the Circuit. Rather, it is learning on the job as a way to acquire leadership and management skills.
- RW: I'm one of two civil silks in Wales, and PH is the first leader of the Circuit based in chambers on Circuit. It is important that the leaders of the future are based in chambers in Wales.
- ME: Solicitors are not trained to run law firms and have no formal training as part of their professional education to deal with man management issues relevant to running a firm. My managing director completed a course on management and leadership at Bangor University, benefiting from EU funding that reduced the cost of the course from £7,000 to £2,000. But funding can be an issue. She has used her training in the practice to make it more commercial in its outlook. A number of law firms are not corporate entities and their business models do not make provision for management education and training and they therefore need to be encouraged. Bangor and Cardiff Universities offer training in management and leadership. I had equality and diversity training in my role with the Law Society.
- FE: There is a need for a review of qualifications for business skills to ensure that they are fit for purpose and relevant. Leadership courses generally are not law focused. This is something that CILEx is reviewing and is looking at the skills required for legal practice. CILEx has taken the

approach of analysing job roles to look what skills people need from entry level onwards. I would say there is a requirement for broader skills generally around business, leadership, commercial awareness, health and well-being and others. I had some training to assist me in my role as President of CILEx. This was mainly media training but it was not in-depth.

Question area: Succession issues in legal firms in post industrial and rural Wales

- FE: The view of CILEx is that there is a net export of graduates and work from Wales. This means that fees and experience are lost too. It's important to raise awareness of the different routes into the professions. My view is that the university route to qualification provides fewer opportunities to develop local talent. CILEx offers an affordable and accessible route for people to qualify and 60% of CILEx members are funded by their employers. Wales needs people who have worked their way up in the profession and who want to stay in Wales. Educating the public about the law is important, both in terms of how they can access the law and how they can develop their careers in it to make an informed choice.
- ME: Succession is a huge problem for law firms. The bigger the firm the more opportunity there is to have a bigger pool of candidates to take over. The size of firms has a big impact on their succession planning. Many firms now have a corporate structure to encourage development. The problem that has been growing year on year is in relation to succession for sole practitioners. Many cannot afford to bring anyone in. If someone is taking in an apprentice or trainee then there should be an incentive for them to do so, because of the cost and their very small margins. Business rates relief is one option. There must be encouragement for firms to take on trainees and additional staff as much as they can. Taking people on board and training them up can encourage them to stay in an area. There is an issue with this however; as my experience is that young professionals move jobs more than they did in the past – perhaps every two to three years. Salary is often the driver for them. When I joined the firm it was a feeling you joined for life and you were on a trajectory leading to partner. In North Wales there have been numerous mergers and amalgamations but this is just delaying the problem as in many merged firms partners are still aged 50, 55, and 60. It's not a long-term solution and there needs to be younger solicitors in practices. In terms of available data about amalgamations and delaying the problem, the Law Society will be able to give information to the Commission about the position. I can give you my personal experiences. There are two firms in Llanrwst but the four banks have shut. There is no banking in the Conwy Valley apart from Llandudno. There are therefore no local banking facilities and the demise of the high street is affecting law firms and where they can bank. A lot of the firms which are sole practitioners are not of the same standard (for example they are not LEXCEL accredited) and this will affect the indemnities of the firms they merge with. My firm recruited a sole practitioner rather than amalgamating with him as an alternative approach. In some of the rural areas we can expand and link with other professional practices as a means of ensuring there is access to advice services, such as sharing back office functions and office space with local estate agents and accountants. There is no strategy on the part of the Law Society or of Government on how to tackle the issue of succession going forward.

Question area: Diversity within the legal professions and the judiciary in Wales

- PH: In terms of social accessibility within the legal sector I will give you my story. My father was a steel worker in Port Talbot and my mother a cleaner. The 1980s world was a different place. Now, the costs of entering the profession are a significant deterrent and the range of backgrounds from pupils is now not so wide. The Bar Professional Training Course (BPTC) has been upgraded in Cardiff University to a Masters degree course meaning that the Welsh Government will subsidise it by £3,000, with students paying £12,000. The Welsh Government could look to expand upon this. The Bar Council is looking with the Inns of Court to filter candidates joining the BPTC to make sure those that get through have a good chance to make a career at the Bar. The Bar Council has a schools programme and the Circuit now has a list of practitioners who are willing to go into schools. There is expectation that further mentoring follows school visits. Welsh speakers go to Welsh medium schools to talk about the justice system. In terms of gender

diversity, this week I addressed the new practitioners' course with 17 pupils of roughly an even gender mix. The retention of women in the profession is an issue. There is a very successful mentoring scheme in the Western Circuit and this is being rolled out in our Circuit. Linguistically the number of Circuit Welsh speakers is around 20%. We are looking to get into schools with a diverse ethnic background. A diverse Bar will feed into the judiciary.

- RW: All chambers offer mini pupillages to sixth form students onwards.
- ME: The Law Society has campaigned nationally to encourage equality and diversity. It is a matter that the President, Christina Blacklaws, is championing. Local Law Societies have been doing lots of work to encourage local members. In North Wales and Cheshire Local Law Society, when I was President in 2014 I did a lot around a schools programme. My father was a steel worker too in Shotton. I, too, am concerned about the cost of getting qualified. A training contract salary is around £19,000 per annum but they now have considerable debt to manage.
- FE: CILEx is ideally placed to improve diversity. CILEx has data on diversity and I will pass this on to the Commission. I will see if CILEx can give Welsh statistics too. CILEx engages with the "Inspiring the Future" initiative and visits schools to raise the profile of options for a career in law. Much depends on each school and their career departments as to whether they promote careers in law and how they promote opportunities going forward. CILEx looks to inspire paralegals to qualify and to earn while they learn and for this the CILEx route is accessible and affordable.

Question area: Addressing the impacts of legal aid cuts in Wales

- RW: Legal aid needs to be re-introduced and this will only happen if it is devolved to Wales. The Bar has certainly adapted in the absence of legal aid and does different types of work. A whole host of common law work that was done in Wales has vanished. Legal aid was essentially self financing. The question of whether it could be re-established is one for policy makers. But something needs to be done because of the impact there has been on justice. I can provide my views to the Commission on a self funding legal aid system and the extent to which it could be recreated.
- PH: Private family law has been devastated by changes to legal aid and there has been little by way of an alternative plan to address the impact of those changes. Chambers in Wales have now provided a model facilitating direct public access to barristers for which there is a fixed cost package for private disputes. That business model has been successful and many junior practitioners do well. From the perspective of the client however, that service is out of the price range of many.
- ME: Wales has been adversely affected, and disproportionately so, by the changes to legal aid. Impacts hit the client, the viability of legal practices and the number of professionals now choosing not to train in areas that were previously legal aid funded. My firm is a legal aid practice. We were the only firm offering welfare advice in North Wales but due to the legal aid changes we are not doing that any longer. I believe that access to early advice should be available and it would have a benefit to litigants in person. The Law Society has been campaigning on this very issue. I attended a LawWorks Cymru event recently in St Asaph but I was the only practitioner present. Funding is the major issue and this area needs funding as advice providers are stretched. The Welsh Government could reverse the situation if it had the opportunity.
- FE: My practice is 50% legal aid and 50% private paying work. The problem is that there is very little awareness amongst the public about the availability of legal aid. It is very important that public awareness is raised of the legal aid that is there. The early legal advice issue could be self funding and eligibility should be on financial grounds only and not always on having to demonstrate evidence of having been a victim of domestic violence. I attended a meeting at the Ministry of Justice and Jenny Beck (of Beck Fitzgerald) has done work on this and produced a plan for Early Legal Advice to be reintroduced. I will send this on to the Commission.

Question area: Issues caused by growing advice deserts

- FE: In Caerphilly where my firm is based there were 15 firms and now there are 5. There has been some amalgamation to reduce the numbers but the result is that they may leave the town.

The changes to legal aid have impacted on the availability of advice services. Geographical challenges contribute to growing advice deserts too.

- ME: My firm offers legal clinics in various locations across North East Wales. I work with others and attended a meeting recently involving LawWorks, the CAB and local authority representatives and I am of the view that there could be better partnerships to offer advice clinics. Funding is an issue. We have Skype facilities in all of our offices as transport and travel in Wales is often not easy. My Council colleagues at the Law Society don't appreciate how difficult travel can be. It can have a huge impact on advice services. If remote access technology was available in community centres and so forth this would save a great deal of time and be a more efficient use of resources.
- PH: There are powerful issues to overcome in tackling advice deserts and technology is very much the way forward to tackle these.
- RW: Video conferencing facilities exist in chambers. Solicitors do not have offices across Wales so technology must be used to facilitate access to advice services.

Question area: Wales better represented within justice bodies in the UK

- PH: The Circuit's voice is heard on the Bar Council where I, RW and a junior sit. I feel the Circuit is well represented as a result and despite being the smallest Circuit, our voice is heard. I sit on the Ministry of Justice and Welsh Government liaison committee and the Lord Chancellor's standing committee on the Welsh language. The Law Commission could have better Welsh representation in terms of diverging Welsh law.
- RW: Justice bodies from the Supreme Court down should have an obligation to have a Welsh representative, this should be mandatory. The Civil Justice Council has just appointed its first Welsh representative. .
- ME: Many of the Law Society's Committees have Welsh representatives but these are not mandatory appointments. The Law Society's main Board does not have a mandatory Welsh seat. I sit on it after having been successful in an election for the position. We encourage our members to have a voice and stand for appointment.
- FE: There is little understanding about Wales issues on many bodies. I'm a representative on some bodies and can promote the Wales issues but it's by accident rather than design as there is no appointed Welsh representative.
- Note: The four witnesses agreed to check a list of the bodies if the Commission sent it to them.

Question area: Impact on regulation of professions if a separate legal system in Wales is created

- PH: My members see themselves as members of the Bar of England and Wales. Even if there was further devolution of justice matters, I don't think the profession would change that position. But if there was devolution, it could be the case that things would have to change. This underpins the conference I mentioned and one of the reasons I'm looking at how chambers in Wales can work collaboratively. If there was a separate Bar, regulation would have to change and follow that. In terms of regulation that would follow a separate profession. There should be one single regulator for England and Wales as the cost would be prohibitive to have separate regulation.
- RW: There is no current appetite for a Bar Council for Wales. In the future this could change. The laws are different already and this will increase. It is important that practitioners from England recognise that divergence.
- ME: From my office in Chester and North East Wales I see the effect of the diverging law already operating. Different regulation from England and Wales would have an impact. Colleagues from West Wales will be predominantly Welsh-based but in the East the border is porous. Regulation if different would impact on my firm and business. There are significant businesses in North Wales but much of their legal advice comes from England. There must be regulation that covers England and Wales.
- FE: I agree with ME. Consider the impact on smaller Awarding Organisations such as CILEx if further divergence takes place and the risk that it could become economically unviable for CILEx.

