

## Wales: the law and the profession

The first National Assembly for Wales was elected in 1999. Since then Wales has seen many developments in the devolution settlement. Today the National Assembly makes Assembly Acts. The powers to legislate have been conferred on the National Assembly within broad subjects such as economic development, health, education, planning and the environment with certain exceptions.



The Welsh Government has approached the full law-making powers by publishing a 5 year legislative plan in areas of huge impact such as human transplantation, housing, social services and three linked Bills for Planning, the Environment and Future Generations (this was previously the Sustainable Development Bill). There are over 22 proposed Welsh Bills.

Behind the proposals for legislation is a very different approach to policy-making. The Welsh Government is pursuing innovative policies across departments. The Sustainable Development Bill has been renamed the Future Generations Bill and is now progressing under the Minister for Communities and Tackling Poverty: "Our proposal is to legislate to provide a clear focus on the challenges the public service is seeking to address, and ensure that decisions recognise the connections between social justice, economic prosperity and the management of natural resources, both now and over the long term ... Smaller countries, like Wales, can lead the way and set examples of how to create sustainable places and approaches".

Another example of diverging policy is Housing where the Welsh Government has decided to follow the Law Commission's recommendations on new legislation to regulate the private rented sector. The Housing (Wales) Bill has passed the committee stage and was debated in Plenary on 1 April 2014.

Whilst Youth Justice itself is one of the few key areas relating to children and young people which is not devolved in Wales, education, housing, substance misuse, health, and social services are the responsibility of the Welsh Government and are the focus of the Welsh Government's Youth Justice Bill (see below regarding youth offenders).

Since 2011, 12 Bills have been passed and become Assembly Acts. However, 3 Bills so far have been referred to the Supreme Court to ask whether the proposed Bill is within the 'Assembly's legislative competence' i.e. the powers 'conferred' on the National Assembly. The Supreme Court has declared that the National Assembly had the legislative competence to enact the first referred Bill. A decision on the two other Bills is awaited.

The fact the powers are 'conferred' on the National Assembly in specific subjects which are subject to individual exceptions, general restrictions and exceptions from those restrictions leads to a situation where there will always be questions over what exactly is devolved (Schedule 7 Government of Wales Act 2006).

The model for devolution in Scotland is a different approach where all powers are transferred except for certain powers which are 'reserved' to the UK. The reserved powers include benefits and social security, immigration, defence, foreign policy, energy and the Constitution. This is a much simpler system in which to operate and is the source of much debate for the future of devolution in Wales.

## The Silk Commission

In October 2011 the Commission on Devolution in Wales, the Silk Commission, was launched by the Secretary of State for Wales. The independent Commission was established to review the present financial and constitutional arrangements in Wales. It carried out its work in two parts.

The first report on fiscal matters was published in November 2012. The report recommended borrowing powers for the Welsh Government, limited income tax varying powers subject to a referendum and the devolution of business rates and discrete taxes such as stamp duty land tax and landfill tax. The Wales Bill is now taking forward the recommendations (except for the devolution of business rates which is subject to further consideration). The Wales Bill had its second reading in the House of Commons on 31st March 2014.

Last month the Silk Commission published its second report on the powers of the National Assembly and has recommended a move to a 'reserved powers' model of devolution for Wales i.e. powers to legislate would in future be held by the National Assembly unless they are specifically reserved to the UK Parliament. In light of evidence the Silk Commission concluded that the 'reserved powers' should be the constitution; macroeconomic policy; foreign affairs; immigration; and defence. This is in contrast to the 20 described subjects (including exceptions, etc.) which are the extent of the National Assembly's current powers.

In addition to the legislative powers the Commission's remit included "modifications to the present constitutional arrangements" this has been interpreted broadly. Recommendations range from improving and formalising inter-governmental relations to transport, broadcasting and natural resources.

The administration of justice is a crucial factor in the development of Wales. The Commission's findings on policing and justice run to 11 recommendations, including:

- policing should be devolved (possibly by 2017);
- there is not a broad consensus in favour of wholesale devolution of the justice system at the present the treatment and rehabilitation of youth offenders should be devolved, given its close links with local government and other devolved functions;
- following the devolution of policing, there should be an implementation review for devolving probation and prisons;
- further administrative devolution in the courts system and judiciary;
- a review of the case for legislative devolution of responsibility for the courts service, sentencing, legal aid, the CPS and the judiciary within ten years;
- there should be at least one judge on the Supreme Court with particular knowledge and understanding of the distinct requirements of Wales;
- unless and until legal aid is devolved, the UK Government should fully consult the Welsh Government and other key stakeholders to ensure that the operation of the legal aid system reflects Welsh circumstances;
- in the context of access to justice, improved access to all legislation in areas of devolved powers through the publication of a consolidated body of Welsh law; and
- a Welsh Criminal Justice Board.

Moving to this future model will take time, the Silk Commission anticipates that the first National Assembly elected to operate under the reserved powers model would be in 2021. The Commission expects a debate to develop in the future about how far a distinctive Welsh legal system might emerge over time. Completion and implementation of the review of legislative devolution of other aspects of the justice system will take until 2025.

## The Solicitors' Profession in Wales Fact Sheet

The Law Society conducts research on the solicitors' profession in England and Wales. These are the most recent figures from the 2013 Annual Statistical Report - the figures for population come from the 2011 census.

### Overview

	Wales	England
PC holders	3,835	111,182
In private practice	2,951	84,817
Population	3,100,000	53,000,000
Solicitors per head of population	1:1,050	1:625
%age BAME	2.9%	16.6%

### Firms in Wales (by size)

	2002	2012
Sole practice	194	181
2 - 4 partner firms	236	246
5 - 10 partner firms	50	50
11 - 25 partner firms	8	10
26 - 60 partner firms	2	3
51+ partner firms	0	0
Total number of firms	490	490

### Main areas of work carried out by firms in Wales

2006	2010
Residential conveyancing (19.8%)	Business affairs (13.7%)
Family law (13.6%)	Wills and probate (8.2.%)
Criminal law (12.9%)	General litigation (7.5%)

### Trainee solicitors in Wales (as at 26 February 2014)

Number of trainee solicitors	198
Number of practices employing trainee solicitors	106
Number of male trainee solicitors	78
Number of female trainee solicitors	120

### The Law Society products and services

Products and services	Number
Conveyancing Quality Scheme (CQS)	195
Lexcel	99
Risk and Compliance	90
Wills and Inheritance Quality Scheme (WIQS)	2

## Criminal legal aid provision

This map shows the 4 police force areas in Wales and the number of duty provider work contracts to be awarded to each. Each of these is classified as a rural area, so each contract may be awarded to a lead contractor with up to 3 delivery partners. Both North Wales and Dyfed-Powys are divided into 2 procurement areas, each with an allocation of 4 contracts. In South Wales one of the contracts has been ring fenced for the Public Defender Service.

