Impact

Legislation Bill
The Constitutional and Legislative Affairs Committee published its stage 1 report on the Legislation (Wales) Bill, which aims to make Welsh law more accessible. Oral and written evidence from the Law Society was referenced extensively throughout the 107-page report. AMs made 14 recommendations, including that the National Assembly agrees to the general principles of the Bill.

On the Bill’s purpose and intended effect, the committee cited the Law Society as saying: “I think the Law Society broadly welcomes the proposal to implement this piece of legislation. For those of us who practice in law, particularly in recent years with the divergences of Welsh legislation from English and Welsh legislation, it can at times be quite difficult to ascertain what law is in force and how to find that law. So, accessibility is very important to all of us, as it is to the public at large as well. (...) the divergence has increased, as of course Wales wants to impose its identity on its own legislation.”

The committee also referenced the Law Society’s calls for accessibility of the statute book to be given more impetus: “…it’s important to give some priority to this now, if we are serious about making accessibility of law better for everyone within Wales, and to start now.”

AMs cited evidence from the Law Society that the Bill will represent a major step forward for the Welsh language and raised the Law Society’s concerns about a lack of academic and practitioner commentary and glossaries of Welsh law.

Turning to additional, non-legislative measures to accompany the Bill, AMs quoted evidence from the Law Society at length: “It’s one thing for a lawyer to read legislation and to interpret law, and for judges to do that, but there is a huge problem in Wales in terms of providing academic material that interprets legislation and provides guidance to lawyers and members of the public on certain parts of legislation or on Acts in their entirety. It may not be the role of the Assembly to fund such a development, but what we’re facing at the moment as lawyers is a situation where there is a whole host of information on law in England and Wales available, but very little information about the law in Wales specifically.”

On post-implementation monitoring, the committee backed the Law Society’s calls for a scrutiny role for the National Assembly for Wales. The report quoted Trevor Coxon as saying: “…scrutiny is always healthy in my opinion, and therefore I think there is a role for the Assembly to take in scrutinising and ensuring that this is delivered.” AMs also listened to concerns voiced by the Law Society that the Bill, as drafted, may mean that only one programme to improve accessibility under section 2 would be brought forward in an Assembly term. Mr Coxon had told the committee: “It seems to us that perhaps a little bit of scrutiny on a more regular basis than that might not be a bad idea.”

Highlighted the Law Society’s concerns about the wording of the duty, the report cited the professional association as saying: “…one concern that we do have is in relation to the duty, because the way Part 1 is drafted at the present time, the duty is to produce a programme that includes ‘proposed activities’ that are intended to do what’s in the section here. And we wonder whether that is strong enough, or whether, in fact, the word ‘proposed’ should perhaps be removed to ensure that some activity is carried out, not just that you put a plan forward, but nothing ever gets done as a result. And, again, it’s a point of detail, but subsection 3 of section 2 talks about what the programme ‘must include’, and subsection 4 talks about
what the programme ‘may also include’, and the first item there is activities…. We would respectfully suggest that perhaps that ought to be part of the duty as opposed to a mere discretion.”

AMs also noted evidence from the Law Society about a lack of external control of and influence on any future accessibility programme. The report quoted from the Law Society’s written evidence: “Whilst ‘consolidating and codifying Welsh law’ is the aim of the Bill the interpretation of the duty is left to the government of the day. It is a particular concern that the timing and progress of codification is a matter for the government of the day.”

In a section on the meaning of consolidation and codification, the committee noted the Law Society’s evidence that the proposals will not create codes as per the current understanding in civil law. The Law Society had told AMs: “The Bill refers to ‘codification’ and the Explanatory Memorandum to Codes of Welsh law but as we know from the Law Commission’s report on the Form and Accessibility of the Law Applicable in Wales there are versions of codification and what is proposed for Welsh law does not create a ‘Code’ in the civil law tradition. Viewed from a wider perspective the proposals could lead to confusion. It is proposed, therefore, that the codes which result from this activity of ‘consolidating and codifying Welsh law’ be referred to as ‘Welsh Law Codes’ to identify them as specific, novel and unique.”

AMs referred to oral evidence from the Law Society on whether a code on the classic civil law lines would be easier to operate than a version where all current legislation is catalogued. Trevor Coxon had told committee members: “I think in terms of clarity and ease of finding the information, the code where everything is there in place has to be the favoured option. Having said that, one can understand that that is a slightly more difficult and, certainly, a more resource-intensive approach to take. But I think as far as we are concerned as practitioners, if we can find the source readily and haven’t got to go searching elsewhere for things, that is a very beneficial approach to take.”

The committee raised the Law Society’s view on the Counsel General’s proposal that his codification plan will not involve the common law. Osian Roberts had said: “I think we’d have to say that we agree with the suggestion made, namely that common law isn’t considered because historically that is law that has changed over many years. And of course, the point of this legislation is to consolidate written legislation, rather than law that has developed and evolved over a period of years. So, time will tell. Perhaps we will need to look at that in future. But, at the moment, I would say that this is the correct approach.”

On dealing with cross-cutting legislation during the process of consolidation and codification, the report pointed to evidence from the Law Society about the conundrum, quoting Trevor Coxon as saying: “I think if something like the well-being legislation was to be referred to in each of the codes, it’s possible that could become somewhat confusing, and so, perhaps I – and this is from a personal perspective now – would err on the side of allocating it somewhere and ensuring that everybody realised that it was allocated, with links through to the other codes as and when they apply. But there are a number of such pieces of legislation – social well-being as well – that have impact beyond just their own location.”

Turning to the Draft Taxonomy for Codes of Welsh Law, the report referenced evidence from the Law Society at length: “…we’ve yet to see what a code might look like, and it’s difficult to be specific in relation to inputting to that until we’ve seen an example of what the code may look like. (…) At the moment, the taxonomy shows the areas of legislation that might be covered on a particular aspect but doesn’t go into any more detail at the present time. I think we will need to see that. (…) It would be useful to see an online version… …we’re very keen as well that we are able to engage and work very early on in the process so
that it’s not treated as the usual, ‘It’s a Bill and it’ll be consulted upon.’ (...) ...it’s going to be really important when the code starts being developed that you do have members of the judiciary, you have the Law Commission... and ourselves as the representative body, and bringing practitioners to the table so that we can work together on the development of it, and not just see the almost cooked product.”

On Part 2 of the Bill, which concerns the operation of Welsh legislation, the Law Society urged the National Assembly to put its stamp on the way that the law in Wales is interpreted. The report cited oral evidence from the Law Society: “[we are] mostly very supportive of the proposals that the Counsel General is putting forward as areas for interpretation. We feel that it could, in some areas, go a little further, but broadly I think it is important. I think it’s also important in the Welsh context, because we are a bilingual country and it’s important that we’ve something that also deals with interpretation in the light of the Welsh language.” AMs also heard that the Law Society supports having a demarcation point from January 2020 from which the Welsh interpretation would apply rather than the 1978 Act.

The committee also raised the Law Society’s concerns surrounding sections 12 and 13 of the Bill, which focus on the service of documents, with the report saying the Law Society questioned whether section 12 was consistent with civil procedure rules. Details of the next steps for the legislation can be found here.

Justice Commission
Richard Miller, the Law Society’s head of justice, provided further evidence to the Commission in Justice on Wales about its work on access to justice issues, particularly concerns about legal aid. The Law Society was referenced as the Welsh Government published further submissions.

Legislation

Ombudsman Bill
AMs passed the Public Services Ombudsman (Wales) Bill. The legislation was put forward by the Finance Committee and it sets out new powers for the Ombudsman to accept oral complaints, undertake owninitiative investigations, investigate private medical treatment including nursing care in a public/private health pathway as well as undertake a role in relation to complaints handling standards and procedures. The Bill now enters post-stage 4, a four-week period during which the Counsel General and Attorney General may question whether it is within the Assembly’s competence. The Secretary of State for Wales may make an order prohibiting the clerk of the Assembly from submitting the Bill for Royal Assent.

Renting Homes Bill
The Renting Homes (Fees etc.) (Wales) Bill also passed stage 4 scrutiny after a short debate in the Siambr. The legislation will prohibit letting agents from charging tenants for services such as granting, renewing or continuing standard occupation contracts. The Bill also makes provision for the treatment of holding deposits. Housing and Local Government Minister Julie James said she intends for the Bill to be enacted by autumn to allow it to be in place for the 2019-20 academic year. As with the Public Services Ombudsman Bill, the legislation now enters the post-stage 4 process.

Legislation Bill
The Constitutional and Legislative Affairs Committee published a letter from Jeremy Miles on the Legislation (Wales) Bill. The Counsel General enclosed a diagram illustrating how the Welsh statute book could look in future. The Finance Committee’s report on the financial implications of the proposed
legislation was also published and the National Assembly issued a press release, saying the Legislation (Wales) Bill has great potential to make Welsh law more accessible. AMs will debate the general principles and financial resolution of the proposed legislation in the Senedd on Tuesday, April 2.

**Smacking Ban**
The Welsh Government introduced the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill this month. An explanatory memorandum and timetable were published alongside the legislation.

**Legal Sector**

**Counsel General**
The need to make the judiciary fully aware of the growing differences between English and Welsh law, the accessibility of devolved legislation to the public, compliance with the Equality Act 2010 and FoI Act 2000, and ensuring fair hearing at planning disputes were all raised at Counsel General Questions this month.

**Barrister Spend**
The Welsh Government received written questions from Conservative AM Janet Finch-Saunders on the total spend on barristers between 2016 and 2019 and reasons for instruction. The Welsh Government responded that it had no complete record but indicated that between £400,000 and £550,000 had been spent each year. It also stated that details of any instruction are also protected by professional privilege.

**Justice System**

**Justice Commission**
The Commission on Justice in Wales received oral submissions on women in the justice system and the role of the Inspectorate. Written submissions to the Commission were also received from:

- Huw Williams of Geldards (Law Society mentioned)
- Presiding Officer Elin Jones
- District Judge Hywel James
- University of Liverpool

**Prisoner Education**
Education Minister Kirsty Williams published Delyn MP David Hanson’s review of prisoner education.

**Finance and Taxation**

**Business Rates**
The Welsh Government launched a consultation on decapitalisation rates for the 2021 non-domestic rates revaluation. In a written statement, Rebecca Evans said the technical consultation will gather views on whether decapitalisation rates should be prescribed in legislation, how many rates should be prescribed and how rates should be calculated. The consultation closes on May 30.
Capital Funding
The Finance Committee launched a consultation to inform an inquiry into the Welsh Government’s capital funding sources. The consultation closes on April 23.

Fiscal Devolution
The Finance Committee published its report on fiscal devolution. The committee criticised Secretary of State for Wales Alun Cairns for lack of engagement and praised the Welsh Revenue Authority. Meanwhile, the Welsh Government published baseline research on public understanding of tax devolution.

Council Tax
Rebecca Evans issued an update on work around council tax as the Welsh Government launched a campaign to raise awareness of the support available.

Planning and Housing

Planning
During Environment, Energy and Rural Affairs Questions, Llyr Gruffydd – the Plaid Cymru AM for North Wales – raised the decision of the Planning Inspectorate to scrap the role of the executive director for Wales, asking when the Welsh Government will create an independent inspectorate. Lesley Griffiths pointed out that she is no longer responsible for planning, saying it now falls within Julie James’ portfolio. She said she would ask the Minister for Housing and Local Government to write to the North Wales AM.

At Housing Questions, Leanne Wood said councils have granted permission for housing developments that should have resulted in the provision of 13,355 affordable houses, but that only 6,746 have been built. She asked if Ms James has confidence that the existing planning system can achieve the Welsh Government’s objectives on housing. Julie James said councils have lost skills that enable them to negotiate the right levels of social housing. She also said councils are being encouraged to have an up-to-date local development plan in place. Ms Wood asked what support is in place to stop councils being “bullied” into watering down affordable housing and other requirements by housing builders. Ms James said the Welsh Government is working to put skills back into councils where necessary. She said the government is encouraging councils to build houses themselves, to work with local building firms and put in place a strategic plan that identifies housing sites.

Renting
Jenny Rathbone and David Melding raised concerns about the Renting Homes Act 2016, asking how section 21 of the Housing Act 1988 will be amended to provide tenants more security and protect them from evictions. Mr Melding argued that there needs to be more variety of tenancy agreements on the market, adding that there are issues with long- and short-term agreements. Julie James said the 2016 Act is not in force due to the need to consult on regulations and the Ministry of Justice updating its computer system. She agreed that there needs to be balance, but she described sudden evictions as a scourge.

Housing
Prior to its evidence sessions on the barriers facing small housebuilders, the Economy, Infrastructure and Skills Committee published written evidence from the Home Builders Federation, Royal Town Planning Institute, Rhondda Cynon Taf council, and Welsh Water.
Petitions
The Petitions Committee considered a petition calling for legislation to grant more rights for third parties to appeal planning decisions. The committee published correspondence from the petitioner and the Cardiff Environmental Law Foundation Clinic. AMs decided to write to Julie James. Committee members also considered a petition calling for TAN1 to be revised, deciding to write to Julie James for an update.

M4 Relief Road

Press Conference
Mark Drakeford told journalists he has received the inspector’s report on the M4 relief road and he is receiving advice on whether he can make a decision on the project while the Newport West by-election is in process. The by-election takes place on April 4.

Brexit

Delay
The Welsh Government and the National Assembly reacted to Brexit developments at Westminster. First Minister Mark Drakeford continues to call for a referendum on a plan agreed by Parliament. This prompted claims of a split when two cabinet members – Vaughan Gething and Eluned Morgan – attended a march calling for a “People’s Vote”. The National Assembly and Scottish Parliament both backed identical motions opposing a no-deal Brexit. Earlier in the month, the Welsh Government warned that the no-deal Brexit could impact negatively on the South Wales Metro project.

Economic Impact
Jeremy Miles published an updated analysis of the economic impacts of Brexit.

Business Support
Ken Skates announced an extra £121m to help businesses prepare for Brexit. The Economy Minister also announced an additional £1.7m to help Welsh SMEs with Brexit challenges. In a written statement, the Mr Skates said the funding will allow SMEs to bid for between £10,000 and £100,000 for a maximum of half of their Brexit-related project costs.

Brexit Regulations
The Constitutional and Legislative Affairs Committee published correspondence from Mark Drakeford, responding to a report on the scrutiny of regulations under the EU (Withdrawal) Act. Brexit Minister Jeremy Miles also wrote to the committee about EU exit statutory instruments.

Withdrawal Agreement
Jeremy Miles published draft clauses for the Withdrawal Agreement Bill if the UK Government were to reopen the political declaration to seek a way forward on Brexit.

European Law
The Constitutional and Legislative Affairs Committee published a letter from Jeremy Miles on the Challenges to Validity of EU Instruments (EU Exit) Regulations 2019.
Devolution

Inter-institutional Relations
Mick Antoniw, chairman of the Constitutional and Legislative Affairs Committee, led a debate on the committee’s report on the agreement between the National Assembly and Welsh Government. The Labour AM for Pontypridd said the inter-institutional agreement will help committees and the National Assembly scrutinise how governments are working together on common frameworks post-Brexit. Mr Antoniw said the agreement establishes three principles for the relationship between the Assembly and the Welsh Government: transparency, accountability, and respect for confidential discussions when policy is being developed. He said the agreement applies to the participation of Welsh Ministers in formal structures, including the Joint Ministerial Committee, Ministerial Forum and the British Irish Council.

Assembly News

Lobbying
The Petitions Committee considered a petition calling for a register of lobbyists. The committee published correspondence from the petitioner – the Centre for Welsh Studies – urging the Assembly not to “kick the can down the road” on this issue. Committee chair David Rowlands noted that the Standards of Conducts Committee decided against recommending a lobbying register. Leanne Wood and Janet Finch-Saunders argued there is a lack of transparency in the system, with Ms Wood noting the European Parliament’s system, arguing that it is “a lot more democratic than we are here”. The committee decided to write to the Standards Committee seeking further information. Mike Hedges suggested lobbyists could be charged to register and said AMs’ code of conduct should be tightened.

Conference Season
The Party of Wales held its spring conference in Bangor this month. A round-up of the key speeches can be found here. The Liberal Democrats hold their spring conference on April 6-7, Labour on April 12-14 and the Welsh Conservatives on May 3-4.

Audit
The Finance Committee will conduct post-legislative scrutiny of the Public Audit (Wales) Act 2013. The deadline for submissions is May 3.

Devolution Anniversary
The National Assembly announced events to mark 20 years of devolution.

Committee Membership
Assembly Members elected Janet Finch-Saunders, the Welsh Conservative AM for Aberconwy, as a member of the Committee for the Scrutiny of the First Minister in place of UKIP’s David Rowlands, who she replaced as Petitions Committee chair.

UKIP Group
Michelle Brown resigned from UKIP and described the Assembly group as a sexist boys’ club. Ms Brown will now sit as an independent AM for the North Wales region. She is the fourth AM to leave the UKIP
group since the party gained seven seats in the 2016 Assembly election. Under the National Assembly's standing orders, a political group must have at least three members.

Bowen Inquiry
The High Court ruled that former First Minister Carwyn Jones acted unlawfully by interfering in arrangements for the Bowen inquiry into how he dealt with the sacking of Carl Sargeant.