



COMMISSION ON DEVOLUTION IN WALES

TWENTY-THIRD COMMISSION MEETING MINUTES

25 - 26 JULY 2013

1 CASPIAN POINT, CARDIFF

Present:**Commissioners:**

Paul Silk (Chair)
Nick Bourne
Eurfyl ap Gwilym
Rob Humphreys
Trefor Jones
Noel Lloyd
Helen Molyneux

Secretariat:

Michael Kay
Mark Parkinson
Sara Parry
Angharad Richards
Ben Jones

Apologies:

Jane Davidson

1. Round-up of activity undertaken since last meeting

- 1.1 The Chair noted that the UK Government had announced a consultation on the [one of the recommendations of the Commission's first report - the possible devolution of stamp duty](#). [He also informed the Commission, as recommended by the Commission in its first report, and](#) that the Permanent Secretary of the Ministry of Justice had written to him, [and to set out](#) that departmental officials would be available to meet the Commission in the Autumn. [He had recently also spoken to Sir Bill McKay, Chair of the Commission on the Consequences of Devolution for the House of Commons.](#)

2. Minutes of Twenty-ieth First Meeting

- 2.1 The minutes were agreed by the Commission with minor amendments.
- 2.2 The Commission agreed the notes of the oral evidence sessions from the twentieth meeting and asked that they be circulated to witnesses.



3. Update on Opinion Poll

- 3.1 The secretariat provided an update to the Commission on Beaufort Research's preparation of its report on the public opinion research it undertook for the Commission.

4. Paper on the model of devolution

- 4.1 The Commission considered a paper on the model of devolution in Wales based on evidence received.

5. Paper on Separate Legal Jurisdiction

- 5.1 The Commission considered a paper on a separate legal jurisdiction in Wales based on evidence received.

6. Paper on the Justice System

- 6.1 The Commission considered a paper on the administration of justice in Wales based on evidence received.

7. Evidence from Sir Roderick Evans

- 7.1 The Commission held a discussion with Sir Roderick on Wales's model of devolution, a separate legal jurisdiction and the administration of justice including a number of issues raised in evidence. [\[suggest we stick to his written evidence to us already on website\]](#)

8. Evidence from Emyr Lewis, Morgan Cole; Huw Williams, Geldards; Prof John Williams, Aberystwyth University; and Prof Daniel Wincott, Cardiff University

- 8.1 The Commission held a discussion with a panel of representatives on a separate legal jurisdiction, including a number of issues raised in evidence.

9. Evidence from Ann Sherlock, Aberystwyth University; and Prof Daniel Wincott, Cardiff University

- 9.1 The Commission held a discussion on the model of devolution in Wales, including a number of issues raised in evidence.

10. Discussion with Geraint Talfan Davies, former Controller, BBC Wales



10.1 The Commission held an informal discussion on a number of issues relating to broadcasting.

11. Paper on Report Structure

11.1 The Commission considered an initial paper on the possible structure of its final report.

12. Progress to date and future work

12.1 The Commission held a discussion on some emerging themes and priorities for the next period of its work.

13. Evidence from Sarah Dew, Magistrates' Association; Juliet Lyon CBE, Prison Reform Trust; Gavin McLeod, Welsh Committee of the Administrative Justice and Tribunals Council; and Prof Rod Morgan, University of Bristol

13.1 The Commission held a discussion with a panel of representatives on the current arrangements for the administration of justice in Wales, including a number of issues raised in evidence.

14. Commission Reflections

14.1 The Commission reviewed the evidence heard in the sessions during the meeting. It considered possible conclusions in a number of areas, but recognised that these would require further consideration and confirmation at a later date.


Actions (Not for publication)

Action Point	Lead	Completion date	Completed
<p>Paper on Model of Devolution</p> <p>Secretariat to enquire into technical difficulties of recent Assembly bills, including Social Services and Well-being, Recovery of Medical Costs for Asbestos Diseases and Human Transplantation Bills. [Not sure what this is about]</p>	Secretariat	By next meeting	On-going
<p>Administration of Justice</p> <p>Secretariat to seek clarification of costs provided by UK Government for devolving prisons</p>	Secretariat	By next meeting	On-going
<p>Evidence from Sir Roderick Evans</p> <p>Secretariat to seek to circulate Sir Roderick's speaking note</p>	Secretariat	By next meeting	
<p>Progress to date and future work</p> <p>Secretariat to circulate draft letter on costs to be sent to UK and Welsh Governments</p>	Secretariat	By 2 August	29 July
<p>Secretariat to invite True Wales, Dwr Cymru, WLGA, Derek Jones and witnesses on cross-border roads and science policy to meetings in September.</p>	Secretariat	By next meeting	
<p>Administration of Justice</p> <p>Secretariat to check whether Magistrates' Association had provided evidence</p>	Secretariat	By next meeting	29 July
<p>Secretariat to circulate costing figures from Prof Morgan's 2010 paper on the devolution of youth justice.</p>	Secretariat	By next meeting	



Decisions [not for publication]

UNCLASSIFIED
The following conclusions were reached, subject to further evidence and consideration in coming months:



Commission on Devolution in Wales
Comisiwn ar Ddatganoli yng Nghymru

Model of Devolution

- The reserved powers model is preferable to the conferred powers model, in that it would give greater clarity to law-makers and a more stable settlement.
- The argument that a reserved powers model requires a separate jurisdiction does not appear fully convincing, but it would require a longer set of reservations than in Scotland assuming a more limited settlement is preferred for Wales
- It would not be a panacea, and we should be careful not to oversell the benefits; and a new Act would require careful drafting to ensure one unclear settlement is not being substituted by another.
- The two Governments would need to work together constructively to operate any settlement effectively, particularly when considering residual powers in a reserved powers model.
- The way in which reservations are articulated, and Minister of the Crown functions require further examination by the two Governments.
- The choice between the Scotland and Northern Ireland models can be considered further on the basis of the evidence we have received, once the Commission has a more rounded view of the settlement it recommends.

Separate Legal Jurisdiction

- ~~A jurisdiction should be defined based on a defined territory, a distinct body of law and some degree of separate courts and legal institutions; Wales has the first two but not the third~~ Generally there is no agreement on whether or not now is the right time to establish a separate legal jurisdiction but there is agreement that its establishment is likely/inevitable at an unidentified point in the future. In keeping with the Commission's principles of clarity and coherence it is therefore recommended that Wales should eventually have its own court system and judiciary and be established as a separate legal jurisdiction in law with a statutory power that would enable legislation to extend to England, under specific circumstances, in line with section 108(5) of the Government of Wales Act 2006; but that this should not be a priority in the short term;
- Recommendations relating to the separate jurisdiction for Wales should be considered directly with issues relating to the devolution of the criminal justice system; however, establishing a separate jurisdiction should not be dependent on the devolution of the entire criminal justice system, although it would require the devolution of some of the courts and some of the judiciary;
- An incremental approach to the development of the legal infrastructure in Wales should be adopted in line with the National Assembly for Wales's Constitutional and Legislative Affairs Committee report on an Inquiry into a Separate Welsh Jurisdiction and the Welsh Government's evidence;
- There should be a Welsh judge on the Supreme Court bench;
- While there is some argument to support the need for a separate jurisdiction as a result of a move to the reserved powers model, there is no conclusive evidence and as such a Welsh jurisdiction is not inextricably linked with the model of devolution it operates within.