



Canolfan
Llywodraethiant Cymru

Wales Governance
Centre

CONSTITUTION-BUILDING IN WALES: FINDING WAYS FORWARD

Workshop Report

Dr Gregory Davies

Dr Huw Pritchard

June 2021

PREFACE

About Us

The Wales Governance Centre is a research centre that forms part of Cardiff University's School of Law and Politics undertaking innovative research into all aspects of the law, politics, government and political economy of Wales, as well the wider UK and European contexts of territorial governance. A key objective of the Centre is to facilitate and encourage informed public debate of key developments in Welsh governance not only through its research, but also through events and postgraduate teaching.

Acknowledgements

The authors would like to thank Luke Nicholas, Professor Laura McAllister, Samantha Bevan and Josiah Kalala for their help in producing this report. They are also very grateful to the participants of the workshop upon which this report is based. The authors take full responsibility for the accuracy of this report.

Contact details

Dr Huw Pritchard, Lecturer in Law
pritchardh3@cardiff.ac.uk

Dr Gregory Davies, Research Associate
daviesgj6@cardiff.ac.uk

Wales Governance Centre
Cardiff University
Law Building
Museum Avenue
Cardiff CF10 3AX

BACKGROUND

Following the Senedd elections on 6 May 2021, Wales is set to begin the next stage of its constitutional debate. In its manifesto, Welsh Labour made a commitment to:

*Work for a new and successful United Kingdom, based on a far-reaching federalism. We want to foster a national, civic conversation in Wales about our future. We will establish an independent, standing commission to consider the constitutional future of Wales.*¹

At the same time, Welsh Labour intends to support a UK-wide constitutional commission established by the UK Labour Party which is intended to focus on federal reform. The Welsh Government has also welcomed calls for a new UK constitutional settlement based on principles of 'Radical Federalism'.² These proposals envision a process of reconstruction centred on citizens' assemblies, to be held across Wales and the UK as a whole.³ The recent appointment of Mick Antoniw MS, a key supporter of these proposals, as Counsel General and Minister for the Constitution, thus raises the prospect of multiple, overlapping constitutional initiatives taking place over the next Senedd term.

Wales, of course, is no stranger to different forms of constitution-building. It has experienced several different models of commission exploring this topic over the last two decades.⁴ The latest commitment from the Welsh Government, however, has two perspectives. Firstly, to consider the constitutional future of Wales, and, secondly, to feed into a UK commission. It is also different to past initiatives in its stress on being a standing commission.

On 23 June 2021 Cardiff University's Wales Governance Centre, part of the School of Law and Politics, held a workshop to consider these proposals. The event brought together former chairs and members of previous commissions, as well as academic expertise on deliberative processes.

¹ Welsh Labour, *Moving Wales Forward: Welsh Labour Manifesto 2021* <https://movingforward.wales/documents/WEB-14542_21-Welsh-Labour-Manifesto_A5.pdf> accessed 28 June 2021.

² Radical Federalism, *We, the People: The Case for Radical Federalism* <<https://drive.google.com/file/d/1iezbe2rmXNCFceRsvRDWb2JMUbSA8ogO/view>> accessed 28 June 2021.

³ Radical Federalism, *We, the People: Our Right | The People's Convention* <<https://drive.google.com/file/d/1WFHr-6gwrCC5u9FVnPSYTkz2-lnCtg35/view>> accessed 28 June 2021.

⁴ 'Commissions are essentially ad hoc investigative bodies set up by governments to examine specific issues. ... [They] are used to 'contract out' research, analysis or policy-making. The focus of their inquiry can be a non political issue, or a controversial topic that a government wishes to be seen to address in a less partisan way...'. L. McAllister, 'Proving the Value of Independent Commissions: A Critical Review of the Richard Commission on the Powers and Electoral Arrangements of the National Assembly for Wales' (2005) 83(2) Public Administration 493–512, 495–96.

This report offers a thematic summary of the discussion, complemented by existing research on previous commissions in Wales. It provides important considerations for the Welsh Government going forward.

RECOMMENDATIONS

On the basis of the issues raised during the workshop discussion, we suggest that the Welsh Government should:

- Identify clearly the purpose of the commission and its intended audience.
- Consider whether a standing (permanent) commission is appropriate for its aims.
- Clarify how multiple constitutional initiatives with competing aims (i.e., a commission, a national conversation and a UK Labour Party process) will relate to one another.
- Consider the desirability of balancing knowledge, independence and representativeness in the membership of the commission, particularly if the intention is to create a 'national conversation'.
- Ensure the commission is properly resourced and given appropriate research and administrative support.
- Consider and clarify at the outset how additional deliberative exercises, e.g., citizens' assemblies, would feed into the work of the commission.

1. A NEW CONSTITUTIONAL COMMISSION

Purpose and remit

During the workshop it was emphasised that constitutional commissions need to be established with a clear purpose, ideally to test and advance a proposition. The Commission on the Powers and Electoral Arrangements of the National Assembly for Wales (the Richard Commission (2002-04)), for example, centred on the proposition that devolution in Wales needed to be re-examined and potentially redesigned, despite having only been established a few years previously. More recently, the Commission on Justice in Wales (the Thomas Commission (2017-19)) was established on the basis that the justice system operated differently in Wales, in ways which had not been properly considered and which may need to change.

By contrast, the proposals set out in the Welsh Labour manifesto appear to encompass multiple propositions: the pursuit of 'far-reaching federalism', a 'national, civic conversation' and a new constitutional commission. In order to ensure an effective process, it is necessary to clarify the purpose of these initiatives, the target audience and how they would relate to one another. For example, it should be considered whether the commission and the national conversation would be constrained by the Welsh Government's preferred option of federalism. Thought should also be given to what would happen if the outcomes did not align with policy preferences; for instance, if the national conversation did not support federalism. There should also be a clear vision of whether these exercises would purport to engage with and influence political opinion generally, or contribute to a Labour Party process in advance of the next UK general election. These considerations will have important ramifications for the design of the commission, explored below.

The proposed commission appears to differ from previous exercises in another respect: it contemplates a *Welsh* process deliberating the governance of the *UK as a whole*. Careful consideration should be given to the suitability, constraints and potential limitations of that approach, particularly in the absence of parallel initiatives in the constituent parts of the UK.

Questions of purpose also arise from the proposal for a *standing* commission. Previous constitutional commissions have been tasked with specific issues to consider within a set timeframe. It is not clear, however, what purpose a standing commission would serve once it

had assessed the state of Welsh constitutional arrangements and made proposals for reform. Further, previous standing commissions have usually been established with a technical remit on an uncontroversial proposition.⁵ This commission, by contrast, will consider deeply contentious questions related to the territorial governance of the UK. Resolving these ambiguities of purpose and audience should be a precursor to the establishment of the new initiatives.

Chair and Membership

The selection of the commission's chair ought to be influenced by a variety of considerations. The perception of independence is essential for credibility and legitimacy. Chairs therefore should be sufficiently distanced from the government which establishes the commission. At the same time, the choice of chair should be informed by the purpose of the commission and the target audience. Here it was suggested by several participants that Lord Ivor Richard was an appropriate choice in 2002 for the task of convincing a reluctant Labour Government in Westminster to reconsider Welsh devolution.⁶ Likewise, Lord Thomas of Cwmgiedd, the former Lord Chief Justice of England and Wales, was described as an ideal chair for a commission which would have to persuade the legal professions and the UK Government of the case for reforming the justice system in Wales.

During the discussion, however, we also heard how constitutional commissions require not only expertise but effective representation. In this regard, there has been a lack of breadth in previous commissions. When appointing the chair and members, therefore, decision-makers ought to adopt a broader view of where expertise is to be found. They should look beyond status and academic expertise and consider practitioner-based and other specialisms, perspectives and insights which could prove valuable to a national conversation. This will require reflection and a willingness to look beyond the 'usual channels'.

⁵ Two examples of standing commission cited during the discussion were the Law Commission and the Royal Commission on Environmental Pollution.

⁶ McAllister observes how Lord Richard, originally from the southwest of Wales, a former Labour MP, European Commissioner, UK Permanent Representative at the UN and Leader of the House of Lords, was considered sufficiently influential in Whitehall and Westminster and appropriately detached from local politics. This helped to bolster the Commission's independence and 'distance the chair from the ongoing internal rows about devolution within the Welsh Labour Party'. McAllister (n 4) 500.

Chairs ought to provide knowledge of the issues and good political judgement. They should have a sound grasp of the key stakeholders and the audiences that need to be persuaded. Once the basic proposition to be tested by the commission has been decided, allowing the chair an input into the terms of reference may prove valuable. It can help to avoid parameters which are too broad or too restrictive. Regular contact between the chair and the Welsh Government regarding the medium and long-term goals of the commission will also be important. Mutual trust is necessary here but the chair should also be prepared to challenge official thinking.

At the outset, the chair should develop a clear understanding with the secretariat regarding their respective roles and responsibilities, particularly with regard to writing the final report. The chair also bears responsibility for the dynamics and pace of the commission. In this regard, they need to be facilitative rather than directive. Ideally, the chair should also have a role beyond the publication of the report: they should take ownership of the recommendations and maintain a political strategy regarding implementation.

With regard to the wider membership, previous commissions have used a range of models.⁷ In different combinations, they have consisted of political nominations, expertise and representation of the wider public and civic society. The most appropriate blend will depend on the subject matter. Commissions with a highly technical remit, for example, may require a larger role for expertise.⁸

Again, it is important for the credibility of a commission that it is seen as politically independent. The composition of the membership can significantly influence perceptions in this regard. The target audience, however, is also key. The membership can be crucial to persuading key stakeholders of the case for change.⁹ Thus if the principal aim is to contribute to a UK Labour

⁷ Rowe and McAllister have noted: 'Each brings certain advantages as well as potential drawbacks. Expert inquiries bring experience and knowledge to bear on a question but might founder upon fervently held standpoints. Representative inquiries might command respect if they reach a single conclusion, but might as easily fragment on party political lines. Impartial inquiries bring open minds to the consideration of a problem, but at the cost of the time it takes to develop more than a shallow understanding of the issues at stake'. M. Rowe and L. McAllister, 'The Roles of Commissions of Inquiry in the Policy Process' (2006) 21 (Winter) *Public and Policy Administration* 99-115, 106.

⁸ The Independent Commission on Funding and Finance in Wales (the Holtham Commission (2008-10)) and the Expert Panel on Assembly Electoral Reform (2017) were expert-led initiatives.

⁹ McAllister observes of the commission that 'one of its greatest strengths may be independence, yet this can work both ways: it can help produce radical, challenging, and strategic findings, but its 'arm's length' status can also encourage a government to ignore its advice'. McAllister (n 4) 497.

Party process, this will have implications both for the pool of potential members and for the perceptions of the commission's independence. Here it was suggested that members of such a commission would need to be open to working with key figures involved in the Labour Party process, such as Gordon Brown. By the same logic, however, there may be strong candidates who would be unwilling to serve on a commission linked to a wider party-political exercise.

We also heard from participants that the membership of a future commission should not be confined to the 'great and the good'. A broad range of perspectives and experience is needed. Members also provide important networks which enable a commission to reach different sections of the population and lead an inclusive conversation. The All Wales Convention (2007-09) provides one potential model. Its membership consisted of four nominations by the Assembly parties, four members of the public and eight from stakeholder organisations. Depending on the type of exercise, however, it may be valuable to allow the chair some input into the selection of other members. This can bring trust and cohesive working dynamics into the process from the outset, which may be particularly valuable if the commission is given a short timescale in which to report.

Resourcing

It is imperative that commissions are properly resourced. They require the financial capacity to commission research and engage widely. They should also be equipped with appropriate administrative, secretarial and research support. Previous commissions have varied considerably in the size of their budgets but they have generally benefitted from a strong secretariat.¹⁰ The relationship between commissioners and the secretariat needs to be clear in terms of their respective roles and responsibilities, particularly regarding the preparation of the final report. The head of the secretariat is a particularly important role and should be appropriately qualified.

Commissions also tend to work best when they develop a culture of challenge and pluralism. The secretariat plays a significant role here. Like the membership, they should provide diverse

¹⁰ Both the Richard and Silk commissions had a budget of around £1m, while the All Wales Convention had a budget of around £1.5m. The Expert Panel on Assembly Electoral Reform, by contrast, reported costs of around £38,000.

perspectives and experiences. The secretariat should therefore be sufficiently sized and structured to provide this diversity. It is also important to have a healthy and constructive relationship where commissioners can challenge and analyse the evidence and documents prepared for them and request additional information where necessary.

Achieving Consensus

Unanimity is important for the weight and credibility of the final recommendations. Effective collaboration and consensus-building within the commission is therefore essential. Previous commissions have succeeded and failed on this basis. Members should be prepared to compromise while also remaining conscious of the need to avoid 'fudging' controversial issues.

Establishing guiding principles early on in the process can help to promote consensus. The Richard Commission, for example, worked on the basis that gains in democracy and accountability were valuable in themselves and that better policy outcomes were likely to flow from more open, participative and responsive governance. Subsequent commissions have similarly adopted guiding principles. The chair and commission members should also seek to agree upon the priorities and red line issues early in the process. Developing an outline structure of the final report in the initial stages of investigation may also help in this regard.

Public Engagement

Commissions ought to be transparent in their work and open to submissions from the public. If not, they are vulnerable to the charge of elitism. Past initiatives have adopted various methods for engaging with public opinion: consultations, events, opinion polling, questionnaires and focus groups, among others. We heard from the participants that the empirical value of these exercises can vary. Public events and consultations tend to attract the same voices and often lack representativeness.¹¹ Additionally, events organised by previous commissions have not always been well-attended.

¹¹ 'Irrespective of the way public consultations and inquiries are conducted and who conducts them, all public hearings and consultations are susceptible to vendettas or to polarization of opinion. ... [T]hey rarely reach beyond

Public engagements, however, have value beyond evidence-gathering. Commissions need to reach out and be seen engaging with the public. Bringing people from different demographics together to discuss issues of politics and governance is also an important exercise in itself, particularly in a context of political disengagement. It was suggested that such events can help to produce a 'ripple' effect in fostering wider interest and engagement, even when the events are not well-attended.

Thought should be given to how the commission engages with public opinion. Several participants suggested that the traditional methods of public engagement can be superficial and condescending. To this end, citizens' assemblies and other forms of mini-publics, as discussed below, may offer alternatives. It will also be vital to identify key stakeholders who can ensure that a rounded and inclusive conversation takes place. The commission will need to work with various organisations in order to reach different sections of the population. An effective social media strategy across popular platforms will also be essential.

Some participants suggested that if the ultimate objective is UK-wide constitutional reform, attention should also be given to how the commission engages with public opinion beyond Wales. This is particularly important given that unionist opinion on constitutional reform differs sharply across the constituent parts of the UK. Others felt that it would be perfectly reasonable for Wales to decide what sort of UK it would like to have and that the exercise should focus on reaching a consensus in Wales before talking with other parts of the UK.

Timescale

Previous commissions have worked to very different timescales. Some have had several years to investigate, whereas others have had months. The timescale will influence how the commission approaches its work: shorter periods may provide focus whereas longer timelines will allow for greater breadth of investigation and wider public engagement.

The timescale of a commission should be informed by the political processes which it purports to influence. For example, the Richard Commission worked on the basis that it needed to report

the 'usual' suspects'. D. Stirbu and L. McAllister, 'An Exercise in Democratic Deliberation: The All Wales Convention's Contribution to Constitutional Change' (2011) 24(1) *Contemporary Wales* 64-85, 74.

prior to a potential UK General Election in 2005 if changes were going to be implemented in time for the next Assembly term. Likewise, the Expert Panel on Assembly Electoral Reform (2017) operated on the basis that sufficient time would be needed to implement electoral reforms prior to the 2021 Senedd election.

Workshop participants were therefore sceptical of the potentially standing nature of the proposed commission. If the commission is intended to be a permanent institution without a timescale, there is a risk that its recommendations will not feed into political processes at the most appropriate times. Even if the new commission is permanent, therefore, it should operate to a considered timescale for reporting in order to maximise its influence.

Political Strategy

Although commissions are usually independent, non-partisan bodies, they require a political strategy. To this end, they need to identify early on what would constitute a good outcome for the process which they can then work towards. Throughout the investigation, they should engage frequently with key audiences and stakeholders as initial conclusions begin to form, especially with those who are most likely to oppose the proposals. This can help to nurture acceptance and receptivity to the recommendations before they are reported, minimising the prospect of political backlash. More generally, commissions need to avoid giving the impression that they are promoting vested interests; in this regard, their approach to public engagement is key.

Strategic alliances also need to be built: with party leaders, parliamentary committees, special advisers, think tanks and the 'quiet influencers' in London. The Commission on Devolution in Wales (the Silk Commission (2011-14)), for example, was able to rely on the support of the Deputy Prime Minister, Nick Clegg, in its discussions with the UK Government. Media engagement is also important. Past commissions have struggled in this regard, but participants suggested that the enhanced profile of devolution in Wales, and in particular the First Minister, Mark Drakeford, may prove to be an asset in future.

Implementation and Legacy

We heard from the participants that the success of a commission's work is shaped by internal and external factors. Internally, well-evidenced, persuasive conclusions and a unanimous consensus are paramount. Externally, initial success will depend on the degree of public and political support for the proposals. In the current constitutional setup, it is inevitable that the UK Government will need to be persuaded of the case for reform. Participants suggested that this is unlikely to happen in the current political context, since both the UK Government and significant sections of the Labour Party are opposed to further devolution.

The success of a commission, however, should not be measured simply by reference to the implementation of its conclusions.¹² Most commission reports are met with mixed reactions and implementation tends to be selective and often gradual. Commissions usually have legacies which stretch far beyond the publication of their reports.¹³ Whether it concerns electoral reform or the devolution of justice, recommendations which are well-reasoned and supported by the evidence may eventually find political acceptance. Again, however, it is productive for the chair to maintain an active and visible role regarding implementation.

¹² The literature on previous Welsh commissions has identified a range of potential benefits: evidence-based deliberation; blueprints for coherent constitutional design; maturing of constitutional debate; greater public input into the policy-making process; and the promotion of public understanding of devolved governance.

¹³ In their survey of previous UK commissions, Rowe and McAllister observe: 'where significant elements of a commission's recommendations have been rejected, one consistent theme is the longevity of the issues they addressed. Those commissions and inquiries that were not accepted in their entirety have returned to the political agenda at subsequent and regular intervals'. Rowe and McAllister (n 7) 110.

2. DELIBERATIVE DEMOCRACY AND A NATIONAL, CIVIC CONVERSATION

The workshop also considered alternative forms of constitution-building, with a particular focus on citizens' assemblies. The workshop heard from Dr Alan Renwick and Dr Stephen Elstub on this topic. Citizens' assemblies have gained prominence in recent years. They are a deliberative process that allow members of the public to engage in a reasoned discussion with the aim of reaching a consensus.¹⁴

Members of citizens' assemblies are chosen at random and should be a cross-section of the population. Notable examples include, the Citizens' Assembly on Gender Equality in Ireland,¹⁵ the Citizens' Assembly on Brexit,¹⁶ and the Climate Assembly.¹⁷ Citizens' assemblies on devolution are not new. The first citizens' assembly pilot was on local democracy and devolution in England (2015).¹⁸ More recently, the Citizens' Assembly of Scotland met from October 2019 and concluded its work in December 2020.¹⁹ The SNP manifesto commits to enhancing the role of such assemblies in Scotland with proposals to run a citizens' assembly annually and for those under 16.²⁰

Wales has also experimented with citizens' assemblies. In July 2019, the Commission of the National Assembly for Wales initiated a one-weekend citizens' assembly to explore 'How can people in Wales shape their future through the work of the National Assembly for Wales?'

¹⁴ D Farrell & J Suiter, 'Reimagining Democracy Lessons in Deliberative Democracy from the Irish Front Line' (Cornell University Press, 2019).

¹⁵ The Citizens' Assembly <<https://www.citizensassembly.ie/en/>> accessed 28 June 2021.

¹⁶ Citizens' Assembly on Brexit <<https://citizensassembly.co.uk/brexit/about/>> accessed 28 June 2021.

¹⁷ Climate Assembly UK <<https://www.climateassembly.uk/>> accessed 28 June 2021.

¹⁸ Democracy Matters, *Lessons from the 2015 Citizens' Assemblies on English Devolution* (March 2016) <<https://citizensassembly.co.uk/wp-content/uploads/2016/04/Democracy-Matters-2015-Citizens-Assemblies-Report.pdf>> accessed 28 June 2021.

¹⁹ Citizens' Assembly of Scotland <<https://www.citizensassembly.scot/>> accessed 28 June 2021.

²⁰ Scottish National Party, *Scotland's Future* (SNP Manifesto 2021) 12-13; Alan Renwick & Robert Liao, 'The future of citizens' assemblies in Scotland' (The Constitution Unit Blog, 21 May 2021) <<https://constitution-unit.com/2021/05/21/the-future-of-citizens-assemblies-in-scotland/>> accessed 28 June 2021.

Following the recommendations of the citizens' assembly, the Senedd established a new online engagement website for the public: <https://yourwales.senedd.wales/>. In its Manifesto for Democracy prior to the Senedd Elections in 2021, ERS Cymru called for the adoption of deliberative democracy tools such as citizens' assemblies.

When considering whether to utilise citizens' assemblies, our speakers emphasised that care should be taken in defining their role and purpose. A citizens' assembly does not replace democratically elected legislatures because, ultimately, decisions must be made by accountable representatives. Neither do they replace expertise. Members of a citizens' assembly must be able to hear from, and quiz, experts to allow them to form a view on the issue. Primarily, citizens' assemblies provide informed opinions from the public, but their value and legitimacy depend on how well they are designed and conducted.²¹

Design

Citizens' assemblies require a clear and focused question/topic, good facilitation, an appropriate timescale (not too long) and adequate financial and human resources. They also need broad political support.

Underpinning a citizens' assembly should be a strong secretariat, convenors responsible for leading the assembly and a stewarding body of independent advisers and experts. It was also suggested that members of the assembly should be given as much autonomy as possible in determining the remit and what type of evidence they want to hear to address the problem.

Our speakers also emphasised that it was important to avoid dividing an assembly into sub-groups. The principal advantage of a citizens' assembly is that it provides a forum which is representative of the public: placing it into smaller units can therefore diminish the authority of the exercise and also facilitate cherry-picking of the conclusions by governments.

Although they are advisory bodies, proper consideration should be given to how their recommendations will be considered and how this will impact future policy, otherwise the

²¹ See further, Alan Renwick & Robert Hazell, *Blueprint for a UK Constitutional Convention* (The Constitution Unit, 2017).

exercise will have been futile. Governments ought to set out clearly in advance how they will engage with the recommendations. For example, they should provide a timeline for implementation and give reasons for not accepting recommendations. The stewarding body should continue after the exercise has been completed in order to maintain ownership of the recommendations and conclusions and oversee their implementation.

Topic Selection

Our speakers emphasised that citizens' assemblies are best used for an emerging issue, where there is no clear answer and where people have not formed an opinion. It was suggested that it would be counter-productive to hold a citizens' assembly when the answer had been predetermined: members may observe that they are being pushed towards a particular outcome and reject it. Likewise, topics where there is already a wide polarisation of opinion would not be appropriate for a citizens' assembly as opinions may be too hardened for compromise from participants. There should also be sufficient focus in the design of the question. Questions which are too broad can undermine the whole initiative and the lack of focus can also make it easier for governments to ignore the recommendations.

It was suggested that electoral reform could be an appropriate topic for a citizens' assembly: it could help to counter hostility to the expansion of the Senedd. Equally, Wales' relationship with the UK could also be the subject of a citizens' assembly, since opinions may have not polarised in the same way as the independence debate in Scotland or reunification in Ireland. However, careful thought would need to be given to the timing and scope of the exercise.

Achieving a Representative Assembly

There are further aspects of design that require attention. Most pressingly, there needs to be a true cross-section of representation from the Welsh demographic. There was discussion here over the factors which would need to be taken into account, including race, gender, national identity and language, among others. Building membership of a citizens' assembly requires a wide exercise of inviting participants and then a stratification exercise to ensure

representativeness from the responses. It is important for the legitimacy of a citizens' assembly that everyone has the chance of being selected. A key aspect of this is also to provide financial and other forms of support to members, partly as an incentive but also to ensure that a cross-section of society is able to attend.

In the selection process, weight can be given to aspects such as identity, language, and votes in previous referendums, for example. It is also possible in areas that are not diverse to seek to over-represent minority groups to ensure representation. However, the exercise should avoid having too many criteria because it could make it harder to reach a representative sample of the population. The citizens' assembly established by the National Assembly for Wales' Commission in 2019 provides a methodology of how this has been conducted in Wales in the past.²²

The Relationship between a Citizens' Assembly and a Commission

Public engagement was identified as a challenging aspect of past conventions. Citizens' assemblies can help in this regard: they can work alongside democratically elected representatives and expert commissioners to help them think through their recommendations more deeply and remain rooted in wider public opinion. In turn, a citizens' assembly can help ensure that decision-making is well thought through and has public support.

The value of a citizens' assembly, and similar exercises, is that it can extend beyond the traditional audience of public engagement for constitutional commissions. However, it should not be a closed process, but rather a broader spectrum of public engagement to stimulate public debate. Ideally, citizens' assemblies will engage with the wider public from the beginning of the exercise. Our speakers discussed how previous assemblies had not succeeded in this regard: most people had been unaware that they were even taking place. In order to avoid this, there should be a strong communications strategy and a willingness to engage with public opinion in creative ways, for example through local referenda and digital engagement.

²² *National Assembly for Wales – Citizens' Assembly: Full Report* (July 2019) 5; Appendix A <<https://static1.squarespace.com/static/5ca4dob5fb18200e164e81b6/t/5d9c99a0209e7437725ecce9/1570544034964/citizen-assembly-English.pdf>> accessed 28 June 2021.

In developing a national civic conversation in Wales, the Welsh Government should consider how to best incorporate aspects of deliberative democracy into its engagement strategy. The relationship between a commission and a citizens' assembly and their respective recommendations would need to be clearly demarcated in advance. To date, there has been no attempt to combine these two forms of deliberative exercise. Without a coherent link, the risk is that the initiatives would operate at cross-purposes and potentially undermine their respective legitimacy.

During the discussion, there were a variety of suggestions as to how a citizens' assembly could feed into the work of a constitutional commission, and vice versa. For example, a citizens' assembly might be tasked with considering the preliminary conclusions of a commission towards the end of the latter's investigation. Conversely, a citizens' assembly could consider the constitutional future of Wales at the level of values and principles. A commission could then proceed to examine in greater depth the options supported by the assembly. Our speakers suggested that there was merit and risk in both options. Under the first approach, members of the assembly might object to the constraints imposed by the commission's interim conclusions. With the latter option, they may wish to go beyond questions of principle and consider the issues in greater depth – and it is here where citizens' assemblies can be most insightful.

Despite their popularity over recent years, it must be remembered that citizens' assemblies are only one form of deliberative democracy, or creating a mini public. There may be other, more proportionate, forms that would be suitable depending on the type of commission and remit established by the Welsh Government. For example, it was suggested that perhaps smaller scale citizens' juries could have a role rather than a full-scale citizens' assembly.

Other participants wanted to explore how deliberative democracy exercises could be incorporated within existing democratic structures. While a commission and citizens' assembly might be an appropriate solution, there was concern that they would be sitting outside the Senedd. They would therefore need to feed into the political process and have a suitable timeline for doing so. However, there may be ways for improving deliberative exercises within Senedd structures through engagement of citizens with committees, for example.

Arrangements in the Brussels Parliament, where citizens are appointed to work on a permanent basis with parliamentary committees, was suggested as worthy of future discussion.²³

²³ Elisa Minsart & Vincent Jacquet, 'Permanent joint committees in Belgium: involving citizens in parliamentary debate' (The Constitution Unit Blog, 28 May 2020) <<https://constitution-unit.com/2020/05/28/permanent-joint-committees-in-belgium-involving-citizens-in-parliamentary-debate/>> accessed 28 June 2021.

WORKSHOP ATTENDEES

Name	Affiliation
Helen Antoniazzi	Chwarae Teg
Mick Antoniw MS	Counsel General, Welsh Government
Samantha Bevan	LLM Student, Cardiff University
Keith Bush QC	Wales Governance Centre, Cardiff University
Dr Richard Caddell	Wales Governance Centre, Cardiff University
Dr Greg Davies	Wales Governance Centre, Cardiff University
Dr Nye Davies	Wales Governance Centre, Cardiff University
Dr Stephen Elstub	Newcastle University
Dr Adam Evans	UK Parliament
Dr Gareth Evans	Swansea University
Professor David Farrell	University College Dublin
Professor Gerald Holtham	Cardiff Metropolitan University
Rob Humphreys	Previously member of the All-Wales Convention and the Commission on Devolution (Silk Commission)
Tom Jackson	Strategic Transformation, Senedd Cymru
Professor Richard Wyn Jones	Wales Governance Centre, Cardiff University
Josiah Kalala	LLM Student, Cardiff University
Jessica Laimann	WEN Wales
Dr Thomas Leahy	Cardiff University
Professor Emyr Lewis	Aberystwyth University
Professor Laura McAllister	Wales Governance Centre, Cardiff University
Auriol Miller	Institute of Welsh Affairs
Dr Rachel Minto	Wales Governance Centre, Cardiff University
Nia Moss	Senedd Research
Dr Sarah Nason	Bangor University
Luke Nicholas	Wales Governance Centre, Cardiff University
Gruffydd Owen	Senedd Research
Hedydd Phylip	Wales Governance Centre, Cardiff University
Dr Huw Pritchard	Wales Governance Centre, Cardiff University
Professor Hugh Rawlings	Honorary Professor, Cardiff University
Andy Regan	Institute of Welsh Affairs
Dr Alan Renwick	The Constitution Unit, UCL
Jess Sargeant	Institute for Government
Sir Paul Silk	Previously Chair of the Commission on Devolution in Wales
Dr Ian Stafford	Cardiff School of Law & Politics
Professor Diana Stirbu	London Metropolitan University
Shavanah Taj	Wales TUC

Dr Alison Tarrant	Wales Governance Centre, Cardiff University
Erin Thomas	Cardiff School of Law & Politics, Cardiff University
Nia Thomas	ERS Cymru
Lucy Valsamidis	Senedd Research
Christopher Warner	Welsh Government
Professor Dan Wincott	Wales Governance Centre, Cardiff University

ANNEX: SURVEY OF COMMISSIONS AND CONVENTIONS IN WALES

COMMISSION ON THE POWERS AND ELECTORAL ARRANGEMENTS OF THE NATIONAL ASSEMBLY FOR WALES (RICHARD COMMISSION)

Chair: Lord Ivor Richard PC QC

Established: July 2002

Concluded: March 2004

Established by: First Minister, Welsh Assembly Government

Remit:

The Commission should consider the sufficiency of the Assembly's current powers, and in particular:

- whether the Assembly's powers are sufficiently clear to allow optimum efficiency in policy-making;
- whether both the breadth (i.e., the range of issues over which it has control) and the depth (i.e., the capacity to effect change within those issues) of the Assembly's powers are adequate to permit integrated and consistent policy-making on issues where there is a clear and separate Welsh agenda
- whether the mechanisms for UK Government policy-making as regards Wales, and the arrangements for influence by the Assembly on these, are clear and effective, and in particular whether they correct any apparent shortcoming from the previous item;
- whether the division of responsibility between the Assembly and the UK Government places inappropriate constraints on Whitehall policy-making, both on matters over which the Assembly has control and otherwise.

The Commission should consider any possible financial implications arising from the implementation of its proposals.

The Commission should consider the adequacy of the Assembly's electoral arrangements, and in particular:

- whether the size of the Assembly is adequate to allow it to operate effectively within a normal working week, and without placing undue pressure on Members;
- whether the means of electing the Assembly, including the degree of proportionality, adequately and accurately represents all significant interests in Wales;

- whether any changes which may be recommended to the Assembly's powers make either necessary or desirable changes to the size of the Assembly or the means of electing it.

Secretariat: Civil servants of the National Assembly for Wales

Evidence gathering:

- 115 evidence sessions
- 3 seminars
- 2 consultation papers
- Over 300 written submissions received
- 9 public meetings
- 3 visits to Westminster Parliament to meet MPs and peers

Implementation

The Richard Commission recommended that the National Assembly for Wales should have primary law-making powers and that Welsh devolution should be reconstituted with a separate legislature and executive. It also recommended that a move to primary law-making powers should be accompanied by an increase in the size of the Assembly to 80 members and a switch to the STV voting system.

The formal separation of executive and legislature was achieved under the Government of Wales Act 2006. The Act also made provision for legislative powers for the Assembly, though on a piecemeal basis. The initial powers were subject to a complex and arduous process of seeking 'legislative competence orders' from the Westminster Parliament. Part 4 of the Act made provision for full legislative powers across 20 subject areas, subject to a successful referendum on the matter. These powers were the focus of the All Wales Convention, which formed part of the 'One Wales' coalition agreement between Welsh Labour and Plaid Cymru following the 2007 Assembly election.

Richard's recommendations on the size of the Assembly and its voting system were never implemented. These issues were revisited by the Expert Panel on Assembly Electoral Reform in 2017.

ALL WALES CONVENTION

Established: October 2007

Concluded: November 2009

Established by: Welsh Assembly Government

Budget / costs: £1.5 Million

Remit:

Terms of Reference:

- Raise awareness and improve understanding of the current arrangements for devolved government in Wales and of the provisions of Part 4 of the Government of Wales Act 2006, and their future implications for the governance of Wales.
- Facilitate and stimulate a widespread, thorough and participative consultation at all levels of Welsh society on the issue of primary law-making powers.
- Prepare an analysis of the views expressed and the evidence presented through this process
- Assess the level of public support for giving the National Assembly for Wales primary law-making powers.
- Report to the One Wales Government on its findings, with recommendations relevant to the holding of a referendum^[1]

Members: The Conventions was chaired by Sir Emyr Jones Parry and guided by an Executive Committee. The Executive Committee included four members recruited through an open competition, four nominated by political parties, and eight nominated by stakeholder organisations in Wales. Membership was voluntary but members were entitled to expenses for travel and subsistence.

Secretariat: The committee was supported by a Secretariat of civil servants on loan from the Welsh Assembly Government and expert civil servants (e.g. lawyers, social researchers and Communications staff from WAG when required).

The Convention had no separate legal status so contracts to support the convention were entered on its behalf by the Welsh Assembly Government.

Method and Approach:

Preparation Stage: Reviewed the history, achievements and challenges of devolution to understand the complexity of the devolution settlement.

The Convention wanted to reach a wide cross section of the Welsh Public. They used several Engagement methods (as quoted from the Convention's Report):

- A stakeholder engagement policy which encouraged key organisations to use their own existing networks to distribute information about the Convention to its members.
- A programme of public events, visiting each local authority area in Wales.
- A formal written consultation exercise inviting organisations and individuals to submit written evidence to the Convention Formal oral evidence gathering sessions in different parts of Wales giving individuals and organisations the opportunity to present their evidence to the Committee in person.
- A wide ranging communications campaign, including advertising the Convention through local papers and local radio, and encouraging individuals to get involved.
- A schools engagement strategy which invited schools to participate in the Convention's work.
- Meetings with each of the local authorities in Wales.
- A series of public appearances by the Chair and members of the Committee at conferences and events arranged by other organisations in Wales which helped to stimulate debate and encourage involvement.
- An interactive and informative website, including a discussion forum and online forms to help people get engaged in the debate.
- A lively debate on Facebook^[2]

The Convention also commissioned formal social research to examine the attitudes and understanding of devolution in Wales.

Implementation

The All Wales Convention was established with a relatively narrow remit of determining the potential appetite for a move to 'full primary law-making powers' (from Part 3 to Part 4 of the Government of Wales Act 2006).

INDEPENDENT COMMISSION ON FUNDING AND FINANCE IN WALES

Established: July 2008

Concluded: July 2010

Established by: Welsh Assembly Government

Remit:

- look at the pros and cons of the present formula-based approach to the distribution of public expenditure resources to the Welsh Assembly Government; and
- identify possible alternative funding mechanisms including the scope for the Welsh Assembly Government to have tax varying powers as well as greater powers to borrow

The Commission were asked to report on these aspects sequentially. It published its first report *Funding devolved government in Wales: Barnett & beyond* in July 2009 and its final report *Fairness and accountability: a new funding settlement for Wales* in July 2010.

Members: Professor Gerald Holtham, Professor David Miles and Professor Paul Bernd Spahn

Secretariat: Officials on secondment from the Welsh Assembly Government

Evidence-gathering:

- Developed a funding formula taking into account range of needs indicators and variables (Annex 4).
- Estimates of tax receipts in Wales and analysis of income tax estimates from HM Treasury.
- The Commission issued calls for evidence on 7 October 2008 (31 responses) and 23 July 2009 (16 responses).
- Regular meetings with Welsh Assembly Government Ministers, officials at HM Treasury, and the National Assembly's Finance Committee.
- Meeting with First Minister of Scotland and Scottish government officials. Meeting with officials of the Northern Ireland Executive.
- Engagement with other bodies reviewing the funding of devolved administrations including the Commission on Scottish Devolution and the House of Lords Ad Hoc Select Committee on the Barnett Formula.
- Invitations for experts to discuss aspects of the Commission's work, including academics, civil servants and political representatives.
- Commissioned Research for Phase 1. [\[3\]](#)

- International Comparisons.^[4]
- Public seminars. The Commission provided small grants (up to £5000) to the Institute of Welsh Affairs and the Wales Institute of Social and Economic Research, Data and Methods to organise free seminars on the second part of the Commission's remit. The Chair spoke at other conferences and events, including political party conferences and specialist conferences.

Implementation

The recommendations of the Holtham Commission received cross-party support from the National Assembly (10 October 2010). In October 2012, the [UK Government and Welsh Government agreed](#) how English and Welsh funding per head has converged in the past and the likely trend in the future.

They also agreed in principle that the Welsh Government should have access to capital borrowing powers, on the condition that there was a revenue stream to support it, such as tax-raising powers, which was being considered by the Silk Commission at the time.

COMMISSION ON DEVOLUTION IN WALES (SILK COMMISSION)

Chair: Sir Paul Silk KCB

Established: 11 October 2011

Concluded: March 2014

Established by: UK Government (Secretary of State for Wales, Cheryl Gillan), with support of Welsh Government and parties of National Assembly

Duration: 2011-2014

Budget: Approximately £1 million (UK Government / Wales Office)

Empowerment and Responsibility: Financial Powers to Strengthen Wales (Part 1)

Remit: To review the case for the devolution of fiscal powers to the National Assembly for Wales and to recommend a package of powers that would improve the financial accountability of the Assembly, which are consistent with the United Kingdom's fiscal objectives and are likely to have a wide degree of support.

Duration: October 2011 – November 2012

Commissioners: Dyfrig John CBE (independent), Professor Noel Lloyd (independent), Professor Nick Bourne (Conservative nominee), Sue Essex (Welsh Labour), Dr Eurfyl ap Gwilym (Plaid Cymru), Rob Humphreys (Welsh Liberal Democrats)

Secretariat: Officials from Wales Office, Welsh Government and HM Treasury

Sian Osborne, Joint Secretary (until June 2012); Michael Kay, Joint Secretary (from June 2012); Mark Parkinson OBE, Joint Secretary; Edward Sherriff, Economic Adviser; David Harries, Research Officer; Sara Parry, Communications Officer; Linzi Perriman, Administrative Assistant (January 2012 to June 2012).

Evidence-gathering

- Call for evidence to 450 organisations and individuals
- Around 50 submissions received before deadline (3 February 2012), 78 submissions received in total for Part 1
- Oral evidence sessions held across Wales
- 28 public meetings, held across all 22 Welsh local authority areas
- A multiple choice questionnaire (220 responses received)

- An opinion poll on tax devolution: 'the most focussed and in-depth held in Wales on this subject'
- Briefing sessions with MPs, Peers and Assembly Members
- Evidence given to UK Parliament Welsh Affairs Select Committee and also met Finance Committee
- Commission also undertook *UK-wide* engagement
 - o Scotland: CBI (Scotland), TUC (Scotland), Scottish Government officials, members of Scottish Parliament Finance Committee, Reform Scotland, representatives from political parties
 - o Northern Ireland: First Minister and Deputy First Minister, CBI Northern Ireland, Committee for Finance, personnel of Northern Ireland Assembly and the Northern Ireland Congress of Trade Unions
 - o England: Commission wrote to 16 MPs representing border constituencies or major cities nearby and all local authorities bordering Wales to ask for views ('We received a limited, though very useful, response')
 - o Other bodies in England (such as Manchester and Bristol airports)
 - o '...it has not been easy to hear what might be described as the voice of England'
 - o Engaged with Institute for Public Policy Research regarding its research on English attitudes to devolution

The Silk Commission also took various steps to raise awareness of its work:

- A website and a Twitter account to promote its activities regularly
- Regular press releases and communiqués following formal meetings
- Print and online articles in national and local news outlets, promoting events and call for evidence
- Chair and commissioners participated in press, radio and television interviews
- Information leaflet was distributed at public events

Empowerment and Responsibility: Legislative Powers to Strengthen Wales (Part 2)

Duration: November 2012 – March 2014

Remit: To review the powers of the National Assembly for Wales in the light of experience and to recommend modifications to the present constitutional arrangements that would enable the United Kingdom Parliament and the National Assembly for Wales to better serve the people of Wales.

Members: Lord Bourne (Conservative) Jane Davidson (Welsh Labour), Dr Eurfyl ap Gwilym (Plaid Cymru), Rob Humphreys (Liberal Democrats), Trefor Jones CVO CBE (independent), Professor Noel Lloyd CBE (independent), Helen Molyneux (independent)

Secretariat: Officials from Wales Office, HM Treasury and Welsh Government

Michael Kay, Joint Secretary; Mark Parkinson OBE, Joint Secretary; Angharad Richards, Constitutional Advisor; Ben Jones, Research Officer; and Sara Parry, Communications Officer.

Evidence-gathering

- A call for evidence was issued to around 800 groups and organisations in November 2012
- A further, targeted call for evidence was made after key issues identified
- Over 200 submissions received
- A questionnaire (500 responses)
- Opinion poll of around 2,000 people, following focus groups to refine questions
- Public events held across Wales, conducted in a variety of formats ('information drop-in sessions, a business breakfast and evening public meetings') with over 400 attending in total
- Regular briefing sessions with Assembly Members, MPs and peers, including MPs for border constituencies
- Commissioners gave guest lectures at conferences and attended events with key stakeholders: Legal Wales, UK's Changing Union, British Academy, National Eisteddfod, Hay Festival
- Engagement with young people e.g. Urdd, Funky Dragon
- UK-wide engagement
 - o Scotland: meetings with Scottish Ministers and officials, Deputy Presiding Officer of Scottish Parliament, leaders of Scottish Conservatives, Scottish Liberal

Democrats, members of Scottish Labour Shadow Cabinet, Reform Scotland, broadcasters and academics

- o Northern Ireland: First Minister, Justice Minister, Permanent Secretary of Justice Department, Northern Ireland Executive, Speaker of Northern Ireland Assembly, officials from North-South Ministerial Committee, Law Society of Northern Ireland, Northern Ireland Law Commission, broadcasters and academics.

Implementation

According to second report of the Commission, 30 of the 33 recommendations made in the first report were accepted either in whole or in part. Key recommendations on tax devolution were implemented under the Wales Acts of 2014 and 2017. Several recommendations of the second report were also implemented, most notably the move to a 'reserved powers model' of devolution under the Wales Act 2017. Many recommendations, however, were rejected, most notably regarding the devolution of powers over policing and youth justice, and the recommendation to the UK Government to conduct further work on the case for devolving further justice functions. The change to a reserved powers model was also undermined by the vast and extensive reservations which accompanied it, having been implemented without regard for the principles of good governance which had guided the Silk Commission's recommendations.

EXPERT PANEL ON ASSEMBLY ELECTORAL REFORM (2017)

Established: February 2017

Concluded: November 2017

Established by: Llywydd / Assembly Commission of the National Assembly for Wales

Budget / costs: £38,096

Remit:

To review, and complement if necessary, the existing evidence and research relating to the size and electoral arrangements for the National Assembly;

From that evidence base, and in order to inform the preparation of any necessary legislation, to make recommendations to the Assembly Commission on what should be the size of the membership of the National Assembly, the electoral system that should be used to elect its Members and the minimum voting age for National Assembly elections.

Members: Professor Laura McAllister CBE (Chair); Professor Rosie Campbell and Professor Sarah Childs (job sharing); Rob Clements; Professor David Farrell MRIA; Dr Alan Renwick; Sir Paul Silk.

Secretariat: Helen Finlayson, Clerk; Sian Giddins, Deputy Clerk (February to June 2017); Candice Boyes, Deputy Clerk (June to November 2017); Lowri Jones, Support Officer

Legal and research assistance: Gwyn Griffiths, Senior Legal Adviser; Helen Jones, Research Service; Lisa Salkeld, Legal Adviser

Evidence-gathering:

- Remit emphasised use of *existing* research and analysis and Panel's expertise
- Existing research was supplemented by 'inviting targeted evidence from specialists, and by issuing a general invitation for interested individuals, groups and organisations, and the public, to share their views'
- Received evidence from 33 individuals / organisations

Implementation

The Panel's recommendation that the voting age for Welsh parliamentary elections should be lowered to 16 was implemented through Senedd and Elections (Wales) Act 2020. The same change was made for local elections with the Local Government and Elections (Wales) Act 2021. However, key recommendations made by the Panel concerning the size of the Senedd and the electoral system are yet to be effectuated. Although the Panel's recommendations concerned the Senedd's electoral arrangements, it is notable that the Welsh Government has since granted

local councils the power to switch to the Single Transferable Vote, favoured by the Panel, for local elections. Further work on Welsh electoral reform was subsequently taken up by the Committee on Senedd Electoral Reform, which reiterated key recommendations.

COMMISSION ON JUSTICE IN WALES

Established: December 2017

Concluded: October 2019

Established by: Welsh Government

Remit:

To review the operation of the justice system in Wales and set a long-term vision for its future, with a view to:

- promoting better outcomes in terms of access to justice, reducing crime and promoting rehabilitation;
- ensuring that the jurisdictional arrangements and legal education address and reflect the role of justice in the governance and prosperity of Wales as well as the distinct issues that arise in Wales; and
- promoting the strength and sustainability of the Welsh legal services sector and maximising its contribution to the prosperity of Wales.

Members: 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 QPM, Sir Wyn Williams.

Secretariat: Andrew Felton (Secretary to the Commission); Kate Cassidy OBE (February 2019); Lauren Cooper (April 2019 – September 2019); David Gordon (March 2018 – February 2019); Chris James (March 2018); Nick Johnson (March 2019); Nova Leonard (January 2018 – September 2019); David Slade (March 2019); Katherine Thomas (March 2019 – June 2019); Rhys Thomas (January 2018); Martin Wade (October 2018). Other members of the Secretariat were seconded by the Welsh Government

Evidence-gathering:

- Initial round table of experts (26 January 2018)
- Call for evidence (February 2018) which receive 205 written submissions from individuals, institutions and organisations. These were published on the Commission's website.
- Oral Evidence (November 2018-June 2019) which heard from 150 people with experience or expertise of the justice system.
- [Online Survey](#) (20 August 2018 – 12 April 2019) with 96 responses.
- Meetings with leaders and professionals in the justice and legal system, academic, third sector, and politics.

- Public meetings (Butetown, Pontypridd and Rhyl) and attended events hosted by stakeholders (Cymorth Cymru, Disability Wales, representatives of women's groups, young people through Voices from Care). Met students at Bangor University, Wrexham Glyndwr University and University of South Wales. Met prisoners from Cardiff and Swansea prisons.
- Visits to Scotland (May 2018) and Northern Ireland (September 2018 and April 2019) to meet senior judiciary, Cabinet Secretary for Justice in Scotland, Justice Committees in Scottish Parliament and Northern Ireland Assembly, senior government officials and those heading police, probation, courts and prison services, as well as academics, third sector organisations, barristers and law firms.
- Visits to London, Manchester, Leeds and Bristol
- Data from the Home Office and Ministry of Justice
- Use of social media
- Use of independent parallel research coinciding with the Commission's work and seminar arranged by the Institute for Criminal Policy Research

Implementation

The Commission on Justice made 78 main recommendations regarding the justice system in Wales. Some of these could be implemented by the Welsh Government within the current devolution dispensation while others would require engagement and agreement with the UK Government.^[5] The Covid-19 pandemic led to the pausing of the implementation of recommendations made by the Commission.^[6]

UK Government Ministers did not formally engage with the Commission. The Secretary of State for Wales said that he 'did not think it would be appropriate for UK Government Ministers or officials to give evidence on reserved policy to a Commission established by a devolved administration.'^[7]

In a [Ministerial Statement](#), the Counsel General confirmed that there been some progress in specific areas where agreement was possible but there 'had not yet pursued discussions with the UK Government on the Thomas Commission's report as a whole.'

In [evidence to the Senedd's Legislation, Justice and Constitution Committee](#), of the Fifth Senedd, the Lord Chancellor stated that there are 'aspects of those recommendations that I am, frankly, keen to explore, because I think they have the potential to improve justice outcomes in Wales'.

[1] All Wales Convention Report (November 2009) [1.6].

[2] Ibid [1.6.1]

[3] The Barnett Formula and its consequences for Wales: a literature review; The use of needs based formulae in the allocation of public resources: literature review.

[4] Independent Commission on Funding and Finance in Wales, Funding devolved government in Wales: Barnett & beyond (July 2009) Annex 3.

[5] Commission on Justice in Wales, 'Justice in Wales for the People of Wales' [12.43]; Chapter 12 (Part 7).

[6] https://gov.wales/written-statement-justice-wales?_ga=2.119087885.500082626.1623923607-1891318333.1614958469

[7] Para.1.16.4

