

# **Commission on Justice in Wales**

## **Call for evidence**

### **UNISON Cymru/Wales Submission**

**June 2018**

#### **1. Introduction**

1.1 UNISON Cymru/Wales believes this is a critical juncture to review the workings of the criminal justice system which has been brought into crisis by the Westminster Government. We therefore welcome the wide ranging remit of the Thomas Commission, and the opportunity it affords the Wales government to develop an effective and distinctive approach to the delivery of justice services for the benefit of Welsh citizens and communities.

1.2 UNISON supports the devolution of political and managerial control of all Justice Services to Wales.

1.3 UNISON notes that Cymru/Wales is the only country in the United Kingdom that does not have control and accountability of their respective Police and Justice Services. In Wales, other key public services, including emergency services, are already devolved.

1.4 This UNISON response is split into the following sections:

- Executive Summary
- Background: UNISON and its Police and Justice Members
- Background: the Justice System in Crisis
- Police Cuts
- Recorded Crime
- Police Mergers
- The Failure of Transforming Rehabilitation in Probation Services
- The Failure of the National Probation Service
- Access to justice
- Conclusion

## 2. Executive Summary

UNISON believes strongly that:

- Justice Services in Wales should be devolved from Westminster and placed under the authority of the Welsh Government
- Prison and Probation Services in Wales should therefore no longer be under the control of Her Majesty's Prisons and Probation Service (HMPPS)
- Police services in Wales should continue to be locally run and locally accountable via the offices of Police and Crime Commissioners
- Probation services in Wales should be re-unified and placed under the local democratic control of Police and Crime Commissioners
- The work of NPS Wales and the Wales CRC should therefore be combined in a new unified delivery organisation (s), following an all Wales consultation on appropriate organisational boundaries.
- HMPPS should lose control of probation in Wales.
- The job security and terms and conditions of probation staff in the NPS and the CRCs in Wales to be protected in this reorganisation.
- Prison services in Wales should also be placed under Welsh democratic control, either at all-Wales, or Police and Crime Commissioner level
- HMPPS should lose control of prisons in Wales.
- Court services in Wales should be placed under Welsh democratic control, either at all-Wales, or Police and Crime Commissioner level
- The Welsh government should consult all relevant stakeholders on the appropriate structures for publically owned and democratically accountable justice services in Wales.
- Justice services in Wales should be provided by directly employed staff without the involvement of private companies
- The Commission should focus on delivering better collaborative working across public services in Wales and the role they play in preventing crime, preventing re-offending and keeping the general public safe.

- All references to Justice Services in this response are to: police, probation, and the Children and Family Court Advisory and Support Service (CAFCASS), youth offending teams, victims support, courts, prisons and associated services

### **3. Background: UNISON and its Police and Justice Members**

3.1 UNISON is the majority trade union for police staff in England and Wales with over 30,000 police staff in membership. Police staff make up around 40% of the police workforce and undertake a wide range of functions alongside police officers to deliver community safety and criminal justice. Police staff roles include: PCSOs, scenes of crime officers, 999 call takers, analysts, researchers, enquiry desk officers, detentions officers and a wide range of administrative and corporate services staff. Police staff are essential to the operation of policing in England and Wales.

3.2 UNISON represents 3,000 members working for the National Probation Service (NPS) and the 21 Community Rehabilitation Companies (CRCs) in England and Wales. Our probation members work as probation officers, probation services officers, community payback supervisors, approved premises managers, case administrators, victim liaison officers and many, many more vital roles. UNISON therefore represents staff working in NPS Wales and in the Wales CRC run by the private company Working Links.

3.3 UNISON also represents members working for the Child and Family Courts Advisory and Support Service (CAFCASS) in England.

3.4 Our police, probation and CAFCASS members are committed to delivering community safety and the rehabilitation of service users.

3.5 Our members are committed to the delivery of high quality public services which are directly provided by the public sector and accountable to the communities they serve.

3.6 UNISON's wider membership, made up of over 1.28 million public service workers, are citizens who value and rely on the work of the Police and Probation Services. UNISON Cymru welcomes the opportunity to submit evidence to the Thomas Commission on Justice in Wales.

#### **4. Background: The Justice System in Crisis**

The justice system in England and Wales is in crisis on account of the austerity programme of the Westminster Government. This has resulted in the following negative impacts:

4.1 Since 2010 police forces in England and Wales have suffered from 20% budget cuts.

4.2 The government has cut 46,000 police jobs since 2010. These cuts have damaged the ability of the police service to keep the public safe and they are continuing despite government claims to the contrary.

4.3 Since the end of 2013, serious crime against the person in England and Wales has risen sharply, as police numbers have fallen

4.4 In 2014/15 the Ministry of Justice broke up and part privatised the probation service in England and Wales leading to a disastrous fall in performance and an increase in risk to communities.

4.5 According to Her Majesty's Inspectorate of Probation, many of the private community rehabilitation companies are no longer providing effective levels of supervision or community protection. Offenders are not being rehabilitated.

4.6 The National Probation Service, although not performing as badly as the community rehabilitation companies:

- aims to merge significant probation functions into the Prison Service, thereby destroying the distinct values and strengths of probation
- has been unable to provide adequate internal corporate services
- cannot connect with local justice partners on account of its remote central command and control ethos

4.7 Despite the failure of its probation reforms, the MOJ has recently privatised night waking supervision in National Probation Service hostels. This has not been a success and is putting residents, staff and communities at risk.

- 4.8 Cuts to Youth Services, including Youth Offending Teams and Careers Services have left many communities with no provision to help young people to make positive choices in relation to life choices or to desist from potential offending behaviour
- 4.9 Cuts to NHS Mental Health Services and to Drug and Alcohol Services, including those in the charitable sector, have resulted in far too many people with mental health conditions and/or drug and alcohol related behaviours ending up in police custody, on probation, or in prison, when their conditions call for healthcare instead.
- 4.10 One of the major determinants of whether someone leaving prison will re-offend is whether they have housing to live in on their release. All the evidence is that funding for housing for ex-offenders is woefully inadequate and the system of provision broken.
- 4.11 UNISON believes that tackling crime and supporting rehabilitation takes more than just the police and probation services. The Commission should focus on delivering better collaborative working across public services in Wales and the role they play in preventing crime, preventing re-offending and keeping the general public safe. What is increasingly clear about crime and social disorder is that many public services are involved both in prevention but also dealing with the aftermath.
- 4.12 Housing, employment, skills and training, policing, social welfare, drug/alcohol treatment, licensing, protection, probation and courts are all locally delivered services which could be operated in a more cooperative way to enable partnerships which produce positive results. UNISON believes that this is the best way to save money without putting the public at risk and improving the life chances of offenders.
- 4.13 It has been the great prize of policy makers in the justice field to move expenditure from dealing with the consequences of crime to preventing it in the first place. This has only become more acute as public service budgets have become squeezed and crime has started rising. This shift of resources has yet to be comprehensively achieved and it will ever be so unless public sector partners truly work together in a holistic way, sharing resources and risk.

## **5. Police Cuts**

Police workforce numbers have dropped substantially as a result of government cuts to police funding. This table shows how the different parts of the police workforce have declined since 2010, in absolute number and percentage terms:

	<b>March 2010</b>	<b>September 2016</b>	<b>Decline in numbers</b>	<b>% Decline</b>
<b>PCSOs</b>	16,919	10,513	- 6,406	-37.86%
<b>Police Staff</b>	79,595	60,814	- 18,781	-24.95%
<b>Police Officers</b>	143,735	122,860	- 20,875	-14.52%
<b>TOTAL</b>	<b>240,249</b>	<b>194,187</b>	<b>- 46,062</b>	<b>19%</b>

In light of the rise in serious crime, members of the public are entitled to ask, *'Where have all the police gone?'* The dismantling of neighbourhood policing in England means that the sight of a police officer, or PCSO, on the beat is now a rare experience. It means that English communities no longer see a reassuring police presence, and also that intelligence on criminal and terrorist activity is no longer being gathered as effectively by neighbourhood policing teams. This leaves us all at risk.

These figures directly contradict the statement made by the Chancellor in the 2015 spending review that:

*"Now is not the time for further police cuts. Now is the time to back our police and give them the tools to do the job".*

## **6. Recorded Crime**

For a number of years after 2010 the levels of recorded crime fell. Government ministers pointed out that the cut in the police workforce numbers was not having an impact on levels of recorded crime. But all that changed at the end of 2013 when the decline in serious crime bottomed out and began the steep rise that has continued to this day.

For the year ending September 2016 the following trends in police recorded crime for England and Wales, compared with the previous 12 month period, reported by the Office for National Statistics (ONS), make for very worrying reading<sup>1</sup>:

- 32% increase in public order offences
- 22% increase in violence against the person
- 22% increase in homicide
- 19% increase in possession of weapons
- 13% increase in rape
- 12% increase in other sexual offences
- 7.5% increase in overall recorded crime
- 6% increase in theft

These alarming figures are part of a very clear trend which started two years earlier. The equivalent ONS figures, for the years ending September 2014 and September 2015, show comparable, or even worse, increases for all the above offences. In other words, serious crime has been on an uninterrupted rise since October 2013.

## **7. Police Mergers**

UNISON has significant concerns about police force mergers. The creation of a single police service in Scotland has also been accompanied by job losses and local police station closures. With cuts of £139m from police budgets between 2014 and 2017 and £1bn over 12 years falling upon local services and vital 999 and 101 services, policing in Scotland runs the danger of become increasingly remote from local communities. Instead of considering mergers with all the disruption and cuts to services this would entail, UNISON believes that Wales should focus on increasing and deepening collaboration between the four police forces.

## **8. The Failure of Transforming Rehabilitation in Probation services**

8.1 UNISON is deeply concerned at the unfolding crisis in probation services following the implementation of the Westminster government's controversial *Transforming Rehabilitation (TR)* reforms which saw the Probation Service broken up and part privatised in 2014/15. The consequences of this disastrous experiment were widely predicted, but are only now being exposed to public scrutiny via recent reports by Her Majesty's Inspectorate of Probation (HMIP) and the inquiries into TR being carried out by the Justice Select Committee and the Public Accounts Committee in 2018.

8.2 Communities, service users and probation staff are all being put at risk because of the systemic failure of the TR reforms. The key question is not whether TR should be replaced, but simply what should replace it and how quickly can this be done? UNISON supports the devolution of the political and managerial control of probation to local level again. Probation was always a local service, which worked to local priorities with local partners. TR fractured this previously successful delivery model to wholly negative ends.

8.3 UNISON wants to see the re-creation of local public sector delivery bodies for probation, first by returning the Community Rehabilitation Companies to public ownership and then by reunifying probation services by localising the functions of the National Probation Service to also bring these back under local democratic control and local management. It would obviously be perverse for the CRC work to be brought under local democratic control only for the work undertaken by the National Probation Service to remain

controlled by the remote and unaccountable Her Majesty's Prisons and Probation Service (HMPPS).

- 8.4 So, under our proposed model, the Secretary of State, the Ministry of Justice and HMPPS would lose control and direction of the services currently undertaken by both the CRCs and the National Probation Service. These would be returned, where they belong, to local level and local accountability.
- 8.5 UNISON strongly believes that Police and Crime Commissioners (PCCs) are well placed to provide the democratic scrutiny for probation, as the senior elected CJS representatives in each local police force area. Devolution of scrutiny should start immediately to give PCCs joint responsibility with the MoJ for managing the existing CRC contracts and the work of the NPS in their respective force areas.
- 8.6 Once the privatised CRC contracts come to an end in 2022, or sooner, if the existing CRC contracts are terminated, the CRCs should be returned initially to public ownership. The CRCs were in public ownership between their creation in June 2014 and their privatisation in February 2015, so we know that this model will work, at least in the interim. Following this initial stage, work should be undertaken with PCCs probation staff, their trade unions and other local CJS partners to re-unite the whole probation service (NPS and CRCs) as a local, publically owned, and funded service, following consultation on appropriate delivery/employer models.
- 8.7 UNISON takes the view that the Ministry of Justice is just too far away from the front line to successfully manage the CRC contracts. Probation was created as a local service which was initially democratically accountable via local authority control on the old Probation Committees. The local magistracy was also involved. This localism was the key to the success of probation which naturally had to work closely with the police, local authorities and health service in its area. Probation Boards were deliberately aligned with Police Authority boundaries for this reason.
- 8.8 With each successive reform to probation governance by central government, by governments of both political persuasions, this local democratic control was gradually stripped out. As Probation Committees were changed into Probation Boards and then into Probation Trusts and finally into Community Rehabilitation Companies, all vestiges of localism were ultimately removed. The co-terminosity of Probation and Police was dealt a final coup de grace by the creation of CRCs which crossed not only force areas, but also government regional office boundaries.

8.9 But the problem of Transforming Rehabilitation is not limited to the CRCs. NPS has escaped the same level of public scrutiny as the CRCs, only because the latter are so much worse by comparison.

8.10 The Ministry of Justice failed to get its 2016/17 accounts cleared by the Treasury as a result of financial mismanagement. This has resulted in the Treasury being unwilling to grant any financial flexibilities to the Department and even the most modest expenses have to go through a long and often fruitless permissions process.

## **9. The Failure of the National Probation Service**

9.1 The National Probation Service (NPS) has failed organisationally in many internal-facing ways, including the following, which have detracted in a major way from its core purpose of rehabilitating service users and protecting communities:

- Not paying its staff properly, or on time, as a result of privatising its pay-roll and HR functions
- Refusing to give the probation unions basic pay data for the purposes of collective bargaining
- Taking money out of the NPS 2017 pay award to pay for the 1.7% pay rise for prison staff in 2017
- Overspending on market forces payments in the South East to the detriment of staff salaries in the rest of England and Wales
- Failing to administer the Local Government Pension scheme properly and being referred to the Pensions Regulator as a result
- Having to use 1,000 very expensive agency staff on account of its failure to recruit and retain the necessary directly employed workforce
- Failing to put in place formal industrial relations machinery with its unions four years on from its creation
- Experiencing staff shortages in key occupations, such as probation hostel workers, as a result of cost-cutting and down-grading key NPS jobs.
- Seeking, astonishingly, to continue to privatise probation functions (despite the failure of probation privatisation to date) by outsourcing night waking cover in probation hostels from 1 March 2018. Not surprisingly, this venture has failed with serious risks for public protection, but it demonstrates that probation is not safe in NPS hands. UNISON believes that this is probably the first in a series of privatisations which HMPSS is planning to move yet more probation work into the private sector.

9.1 The plan of HMPPS is to merge Probation into the Prison Service. The HMPPS Offender Management in Custody (OMiC) project is the vehicle which is being used to deliver this outcome. OMiC will see probation officers put under the direct line management of prison governors, at which point it will be impossible to separate out local probation services from a Prison Service which is clearly not willing to submit to local democratic control. This will be a disaster for probation and will see the values of the probation service subsumed in the very different value system of Prisons. In effect, probation will have been abolished. This must not be allowed to happen.

## **10. Access to Justice**

UNISON was proud to win the ground breaking judicial review at the Supreme Court challenging the introduction of fees for Employment Tribunals. This was a victory for all workers and for the principle of access to justice. On the wider questions of legal aid cuts and access to justice, UNISON believes that the Commission should review the recent report by Lord Bach following his Commission on Access to Justice, which is highly recommended and comprehensive. The Commission found that cuts to legal aid have created a two-tier justice system where the poorest go without representation or advice. The Bach Commission called on the government and other political parties to ensure that minimum standards on access to justice were upheld. A link to the final report can be found by visiting <https://fabians.org.uk/publication/the-right-to-justice/>

## **11. Conclusion**

The Thomas Commission has an opportunity to shine a light on the failings of the Westminster Government's failed Transforming Rehabilitation experiment, the impact of Home Office cuts to policing, the court closure programme and the failure of the Government to support those local authority and health programmes which help people to desist from crime in the first place, or reform their behaviour if they have offended.

UNISON advocates the wholesale devolution of control for justice services to Wales to bring all services closer to the communities they serve. We want to see Probation re-unified under local democratic control and HMPPS to lose control of probation in Wales. We expect our probation members to be protected in this re-organisation. Prisons and courts should also come under devolved government to ensure a joined up justice system under local democratic control.

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<sup>i</sup> National Office for Statistics 'Crime in England and Wales: year ending September 2016'  
<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingsept2016>