



Wales Centre for Public Policy
Canolfan Polisi Cyhoeddus Cymru

Devolving Probation to Wales

Welsh Centre for Crime and Social Justice Conference

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29th April 2024

Overview



Background to our project



Insights from other European probation systems



Pathways to devolution in Wales





Identify



Advocate



Communicate



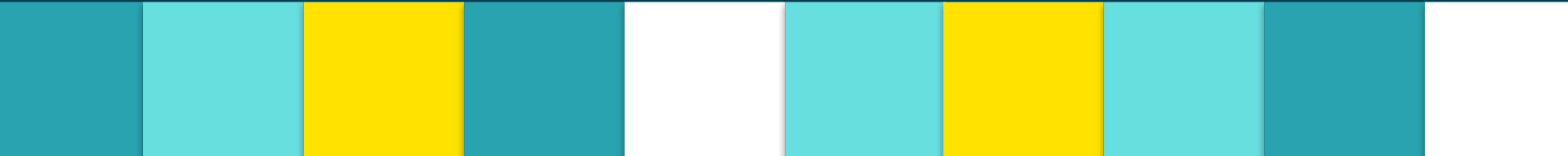
Advance



Convene



Background to our project



Background

- As part of our programme of work for the Welsh Government, we were commissioned to support their existing work, as well as that carried out by the Probation Development Group (PDG)
- The PDG's work sets out a long-term vision for a Welsh probation service, Based on this, our work asks how the Welsh Government might set about taking the first steps to realising that vision, and what needs to be considered at an early stage
- Focus on the practical considerations which will need to be considered in the process of devolution – **delivery mechanisms and pathways**

Research Questions

Our research considers four main questions:

1. What potential benefits could arise from the devolution of probation to Wales?
2. What approaches and models to the delivery of probation could best realise the potential benefits of devolution?
3. To what extent would benefits be realisable without primary legislation?
4. What non-legislative considerations should be taken into account in devolving probation, and how could they be addressed?

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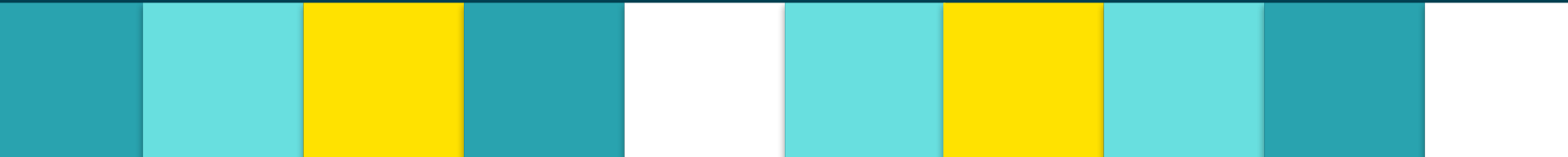
Methods

- To answer our research questions, we have:
 - Drawn on existing academic and grey literatures
 - Conducted interviews with relevant stakeholders including:
 - Academics and researchers within and outside the UK
 - Practitioners within the UK, including England and Wales; Scotland; and Northern Ireland
 - Practitioners from elsewhere in Europe
- Next steps:
 - Test findings with stakeholders
 - Further development of final outputs

Benefits of devolution

- The benefits of devolution can be grouped into two main areas:
 - A **better interface** with devolved public services
 - E.g. health, education, social care and social services
 - Potential to change the **values, operating model, and working conditions** of a future Welsh probation service
 - This could include restoring a social work ethos, professional values per the PDG's work, and addressing current workforce concerns
- The model which is chosen will affect the extent to which benefits can be realised.

Insights from other European probation systems



Belgium



Responsibility for probation services in Belgium has been devolved to linguistic communities since 2015

- **It is easier to provide and organise support for individuals if you have competence for providing those services.**
- Similarities to Wales in terms of sentencing, which remains responsibility of the federal government.
- Can move towards desistance-based approaches – more methodological freedom.
- Prisons also the responsibility of the federal government, with their own social services
 - Need for coordination between the prison service and probation service towards the end of the sentence.
- Centralised contracts for electronic monitoring and software – traditions of working together.

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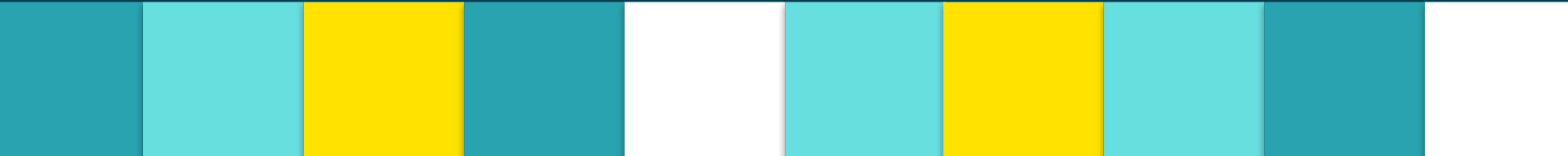
Slovenia



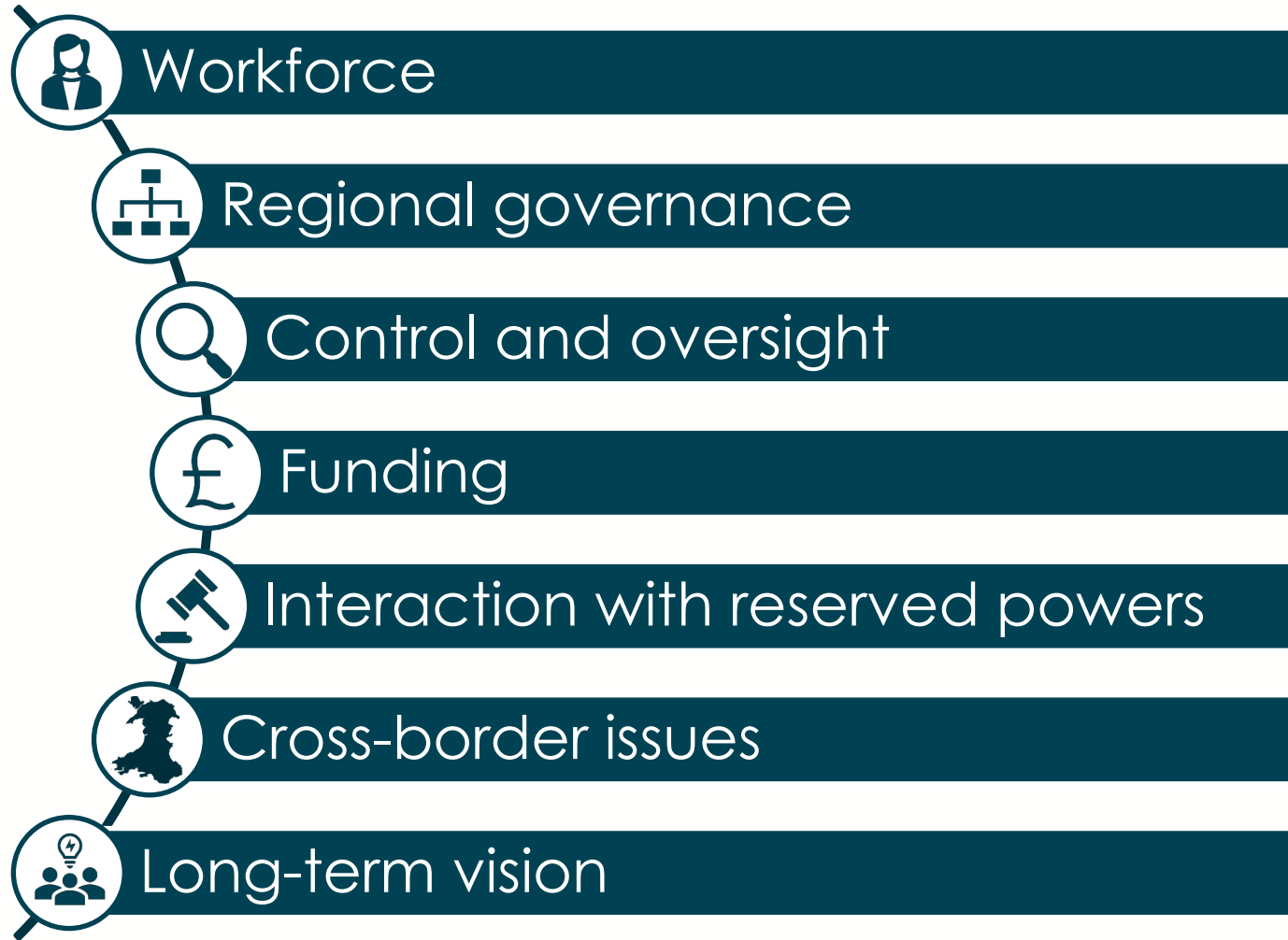
A relatively new probation service:
established in 2018

- **Probation isn't possible without stakeholder collaboration – involvement was key in building confidence in the new probation service.**
- Formation of a central unit which coordinates with other authorities and services and is responsible for the education and training of staff.
- Codifying responsibilities of different actors to help gain trust in alternatives to prison.
- Shared experiences from different countries an important factor in influencing the formation of the Slovenian probation service.

Pathways to devolution in Wales



Key practical considerations



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Options for devolution

1. **A memorandum of understanding** leading to the co-commissioning of certain services in line with the arrangement in place in Greater Manchester and elsewhere.
2. **Transfer of executive responsibility** without legislative competence, allowing the Welsh Government administrative oversight of probation without any lawmaking powers.
3. **Full transfer of legislative and executive responsibility**, removing probation from the list of reserved powers and giving the Senedd power to legislate to create a Welsh probation service.

Memorandum of Understanding

- **Benefits:** quick and easy to do; limited set-up costs; ability to shape broader probation environment and address (some) jagged edges without creating new ones; opportunity to start a journey towards a Welsh probation service.
- **Drawbacks:** no executive or legislative control over the probation service; MoU relates to co-commissioned services only; probation would remain non-devolved and part of HMPPS.
- **Other considerations:** non-legislative approach which can easily be extended/cancelled by either party.

Transfer of executive responsibility

- **Benefits:** Welsh Government becomes responsible for operational parts of the probation service; ability to change aspects of workforce, staffing, governance, procurement and potentially influence longer-term values and working.
- **Drawbacks:** no legislative devolution means laws would continue to be passed by Westminster and limited ability to shape oversight/regulation. Funding implications. Potential for new barriers between HMPPS, courts, and Welsh probation.
- **Other considerations:** would establish a separate Welsh probation service but unclear whether other functions would also transfer over; requires secondary legislation; gives no legislative control or oversight to the Senedd.

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Full legislative and executive devolution

- **Benefits:** the Senedd gains legislative responsibility for probation and can set up a probation service, regulation and oversight. Allows the benefits above and the ability to shape long-term operation and function of probation in line with Welsh desires.
- **Drawbacks:** funding uplift would be based on Barnett calculations and not based on changes to the operating model. No control over sentencing powers, and barriers between Welsh probation, HMPPS and courts.
- **Other considerations:** requires primary legislation from both the Senedd and Houses of Parliament. Would be a time-consuming process including setting up several new bodies

Conclusion

- Our work presents different options for devolution. Each come with benefits, drawbacks and trade-offs which will need to be considered. **Decisions about which ones to pursue will be a political choice.**
- **Developing a Welsh probation service will be a process, not an event.** Our work looks at the initial steps in devolving probation – we need to think about how to then reach the long-term vision outlined by the PDG. Opportunities to adapt and change will differ depending on the model selected.
- It will be especially important to consider the financial implications of each model, given the current strain on public finances.
- **Next steps:**
 - Test findings with stakeholders
 - Further development of final outputs





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