

Mapping Legal Education in Wales 2

Rationale and aims of the project

The project was intended to be a follow up to the Mapping Legal Education in Wales (MaLEW) project which was conducted in 2003 and was led by Professor Pat Leighton. Since the first MaLEW report the National Assembly for Wales acquired primary law making powers in 2011 and a separate legal jurisdiction for Wales is a longer term aim of the current Welsh Government.

The aim of this project was to ask the following research questions:

- To what extent has legal education responded to changes in the devolution settlement particularly since the National Assembly for Wales acquired primary law making powers?
- To what extent are legal education providers preparing for a separate Welsh legal jurisdiction?
- To what extent have legal education providers responded to the Welsh Government's policy agenda?

Methodology, problems or difficulties faced and response to them

A questionnaire was devised and, using Survey Monkey, sent to lecturers in the five law schools in Wales. Skills had to be developed in relation to questionnaire writing and invaluable support and assistance was given by Professor Pat Leighton from LERN. The response rate varied from institution to institution. The response to this was to send reminding emails which did improve response rates. Face to face interviews were conducted with representatives of the legal professional bodies and with key legal practitioners. A literature review was also undertaken.

The LERN showcase event was a further opportunity to obtain feedback and develop the research.

Key findings

1. The major finding is that there is insufficient preparation amongst higher education providers being made for a separate Welsh legal jurisdiction even though that is the longer term aim of the Welsh government. Tutors and students are not being sufficiently supported to develop the curriculum to include devolved subjects. This is shown by:
 - 93% of respondents thought there is a need or will be a need to set up a body to set an agenda for legal education in Wales and keep the curriculum under review.
 - 64% of respondents do not plan delivering modules differently as a result of the Welsh Assembly acquiring primary law powers.
 - 56% of respondents felt there were insufficient secondary materials to support students when it came to devolved subjects.
2. There is a lack of proficiency amongst law tutors in the Welsh language which inhibits growth of Welsh-medium modules, as well as the development of a potential separate, bilingual legal jurisdiction. There has been little progress in this regard since the first MaLEW project as shown by:

- 71% of respondents would not be confident in teaching modules through the medium of the Welsh language.
3. The current regulatory system for law degrees - or the perception of it - is preventing the development of modules relating to devolutionary subjects as shown by:
 - 85% of respondents thought that there was a need for the Joint Statement and QAA Benchmark Statement to make specific reference to devolution.
 4. However, in contrast to Northern Ireland, the grading of research is not thought to work against researching devolved subjects as shown by:
 - 57% of respondents thought that researching the body of law that relates solely to Wales would not be more or less favourably treated for the purposes of the Research Excellence Framework (REF).
 5. If and when a separate Welsh legal system is established there will be a need for a high transferability of legal professional qualifications with England as there is a perception that too much focus on devolved subjects limits students employment prospects as shown by:
 - 44% of respondents do not teach devolved subjects either because it will limit the module's appeal or would adversely affect students' employability.

Some concluding thoughts about the value and impact of the project

The Commission on Devolution in Wales, known as the Silk Commission, recommended that there be a review of devolution of the criminal justice system in ten years' time and the Welsh Government supports this with steps being taken to facilitate it being taken now.

This project has shown that there is insufficient preparation for a separate jurisdiction and that there has been little progress in addressing the agenda of Legal Wales since the first report in 2003. The first MaLEW report found that little was being done to differentiate the agenda in Wales to address the Welsh economic and social agenda. Little has changed in the intervening period. The project highlights that there are a number of structural problems that inhibit the development of the teaching of devolved subjects.

In particular, thought needs to be given as to how secondary sources such as practitioner texts and student textbooks are going to be developed. It is difficult to make such publications commercially viable for a small jurisdiction and, at the current time of austerity, it is difficult to secure public money. Northern Ireland which has used a patchwork quilt of public money, charitable and volunteer contributions, and academia to produce secondary sources might be the only viable way forward although that does not seem to be coming into existence in Wales at the present time and leadership is required.

The report holds implications for the SRA competency statement. Some knowledge of devolution law is necessary to be a competent legal practitioner in England, as well as in Wales. Teaching in devolved subjects cannot be developed if there is insufficient space for them in the curriculum. The promotion of comparative legal study of laws which apply only in England and only in Wales will help

students not only assess the differences in laws in the two territories but also equip them to deal with increasing internationalisation of the law.

Planned or completed dissemination

A 6,000 word paper was presented at the W.G. Hart workshop on legal education held at the Institute of Advanced Legal Studies in June 2014. This paper will be adapted into an article taking into account feedback received at the Hart workshop and the LERN showcasing event in December 2014. Some additional work will also be undertaken and the paper will then be submitted to a refereed journal.