



Llywodraeth Cymru
Welsh Government

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Devolution,
Democracy and
Delivery

Powers to achieve our
aspirations for Wales

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Foreword by the First Minister for Wales, Rt Hon Carwyn Jones AM



2014 marked the fifteenth anniversary of democratic devolution in Wales. During those fifteen years our governance arrangements have been transformed. The Assembly in 1999 was relatively powerless, an elected body primarily tasked with supervising limited executive powers. By 2014, working alongside a Welsh Government making and implementing policy and proposing legislation, it has become the fully-fledged legislature our country needs. This fundamental change came about in response to a decisive vote of confidence by the Welsh electorate in 2011.

Wales has had primary legislative powers for barely three years. In that period we have delivered an ambitious legislative programme, ranging from major reform of social services to ground-breaking measures like the Human Transplantation (Wales) Act 2013. In seeking broader powers for the Assembly, we will build on our expertise and capacity which has grown substantially since 2011. This progress means that we can look forward with confidence to assuming new responsibilities.

Yet, despite this very rapid evolution, the devolved institutions are still constrained by a set of outdated governance arrangements that hark back to the days of executive devolution. In its second report, the UK Government's Commission on Devolution in Wales (the "Silk Commission") recommends a new model of devolution, to enable us to deliver fully for the people of Wales. Moving to a Reserved powers model, which the Commission recommends, is not just a technical change. It would create a more coherent constitution for Wales within the UK, putting all the devolved administrations on the same footing. It would also reduce the uncertainty and complexity in the current system – which is a real barrier to delivery.

In responding to the Commission's report, the Welsh Government is setting out our case for broader powers, on the reserved model, so that we can take forward even more effectively our programme of change to strengthen Wales and Welsh public services. We must be able to promote our goals for health, for the environment, for the economy and transport, and for our communities, unfettered by uncertainty and confusion about our powers.

We are seeking broader powers, not to pursue short term initiatives, but to promote Wales' well-being for the long term. In coming weeks we will be publishing our Future Generations legislation which will set out shared goals for our country, based on a national conversation about the Wales we want to see. Evidence from other successful small countries and regions around the world confirms that this shared purpose is the key to successful change.

We will also shortly be publishing our plans for the next phase of reform of our public services. These plans have been developed in tandem with our proposals for further devolution. At their heart is our vision for public services which informs our proposals for reformed governance at national and local level. The broader powers we are seeking will enable us to continue with our twin track approach: both improving public services and supporting people to improve their own lives, through our national goals for the sustainable development of our country.

Devolution allows us to set a distinct agenda for Welsh public services, tailored to the needs of Wales, with democratic accountability and leadership nationally and locally. This means building a new relationship with citizens in which services help people to support their own well-being to the maximum extent possible. We are responding to austerity not by withdrawing from public services, but reshaping them. This is the right approach because it empowers people and makes the best use of resources to promote well-being. Broader powers will give us the maximum flexibility to shape the public services Wales wants and needs.

So we support the direction of travel proposed by Silk. In some areas, including critical ones like energy and public health, we believe that the Commission has not gone far enough, and we will continue to make that case. In any event, the detailed provisions in the next Wales Bill will need to take into account potentially much wider changes to the UK's devolution settlement following the Scottish referendum, and we will be ready to consider whether these would be right for Wales. But Silk puts us on the right path, and this document explains why that is so.

Welsh devolution in its current form is over cautious, over complex and outdated. The Welsh Government stands ready to work with the current and future UK Governments to replace it with the reformed constitution Wales needs.

A handwritten signature in dark ink, appearing to read 'Carwyn Jones', written in a cursive style.

Rt Hon Carwyn Jones AM
First Minister of Wales

Introduction

1. This statement sets out the Welsh Government's vision for the governance of Wales within the United Kingdom. It sets out our constitutional aspirations in the context of our aspirations for Wales and for Welsh public services.

2. The first part of the statement covers broad issues of constitutional structure, the democratic process and financial reform. The second part outlines how more extensive powers, for the Assembly and the Welsh Government, will enable us to achieve our goals for the people of Wales today, and for the well-being and prosperity of future generations. The third part sets out the timetable we envisage for the implementation of this programme of constitutional reform.

3. Constitutional reform is part of a wider programme designed to get powers, structures and relationships right at every level of government in Wales. In seeking these changes, the Welsh Government's aim is to give the National Assembly and the Welsh Government the ability to legislate in the interests of Wales, meeting our specific needs, and building on the substantial gains made in experience and capacity since the first stage of democratic devolution began in 1999. So the statement sets out the policy direction sought by the Welsh Government, and the key principles that will influence our approach to discussions with the UK Government about the development of Welsh devolution, informed as we are by the Silk Commission's report published earlier this year.

4. The Welsh Government welcomes that report and supports the direction it identifies for achieving a simpler and clearer constitutional settlement for Wales. We welcome too the broad political consensus on which the Commission based its work, and which has been reflected in Assembly debate on the report. The changes required are significant, and will require careful planning. But in the context of the distance travelled since 1999, and the growth in legislative and policy expertise of the devolved institutions, these changes are evolutionary rather than revolutionary. They represent the next logical step in the democratic journey started in 1999.

Powers to achieve our goals over the long term

5. The past fifteen years has been a period of rapid constitutional and organisational change. We have had three different models of devolution, acquiring full legislative powers only in 2011. Since then, we have delivered 14 Assembly Acts, detailed in the Box opposite, addressing key issues for Wales in health, social services, education, and local government.

Acts of the National Assembly for Wales 2012-14

The Education (Wales) Act 2014 to strengthen and enhance school standards, improve local accountability and reduce complexity and bureaucracy;

The Social Services and Well-being (Wales) Act 2014 to help integrate health and social services, and better support vulnerable people and their carers;

The Control of Horses (Wales) Act 2014 to enable local authorities to deal with the harm that the nuisance of fly grazing causes to communities in Wales;

The National Health Service Finance (Wales) Act 2014 to allow the NHS in Wales greater financial flexibility to manage their funding over a rolling 3 financial year period;

The Further and Higher Education (Governance and Information)(Wales) Act 2014 to enhance the autonomy and decision-making abilities of Further Education Institutions;

The Active Travel (Wales) Act 2013 to improve routes for walkers and cyclists;

The Mobile Homes (Wales) Act 2013 to help improve regulation of the industry so that conditions on mobile home sites are improved and the rights of residents are better protected;

The Human Transplantation (Wales) Act 2013 to increase the number of organs and tissues available for transplant by introducing an opt-out donation system;

The Local Government (Democracy) (Wales) Act 2013 to improve the democratic accountability in local government, including in respect of the pay of senior officers;

The Public Audit (Wales) Act 2013 to provide for more open and effective governance of the Auditor General for Wales (AGW) and the Wales Audit Office (WAO) while protecting the AGW's independence;

The Food Hygiene Rating (Wales) Act 2013 to place a duty on food businesses to display their food hygiene rating at their establishment;

The School Standards and Organisation (Wales) Act 2013 to help raise school standards, including streamlining funding and improving governance and accountability;

The Local Government Byelaws (Wales) Act 2012 to simplify procedures for making and enforcing local authority byelaws;

The National Assembly for Wales (Official Languages) Act 2012 to provide that the Welsh and English languages are treated on a basis of equality in proceedings of the National Assembly for Wales and in the discharge of functions of the Assembly Commission.

6. In exercising these enhanced powers, we have developed much stronger expertise in policy and legislation. In addition, the period since 1999 has seen a substantial expansion of executive responsibilities, with the successful devolution of key services such as fire and rescue and the Children and Family Court Advisory and Support Service. As a result, both the Assembly and the Welsh Government are very different organisations from those that existed in 1999, with greatly enhanced responsibilities and capacity. Against this background, the direction set out in the Commission's report represents a logical evolution which, with a fair transfer of resources to cover new responsibilities as discussed below, we can manage with confidence.

7. Our guiding principle in the exercise of our powers must be the sustainable development of Wales, for the long term well-being of our people and communities and the stewardship of our environment. And we seek to do this in a particular way: since 1999 we have established a track record of working collaboratively with partners in public services, business and the third sector to secure better outcomes for all.

8. Through the Future Generations legislation about to be introduced into the Assembly, we will put our governance in a stronger sustainable development framework, so that all partners have clarity on our nation's shared long term goals. These goals build on a national conversation about the Wales we want, and will be subject to full democratic scrutiny by the Assembly. We need the clarity and coherence of powers advocated by the Silk Commission to enable us to achieve these goals to full effect.

9. A reformed devolution settlement will allow us to continue to strengthen and simplify the legislative framework for our public services, supporting the reform agenda for these which we will publish later this month. The current largely pre-devolution framework which we inherited is over complex, and we are tackling this over time. But broader powers will give us a new set of tools not just to improve services in line with our public service values, but to take action to help people improve their lives, to strengthen communities and reduce inequality.

Part 1: Constitutional structure, the democratic process and financial reform

Wales within the UK and Europe

10. The Welsh Government is clear that the interests of Wales will be best secured in a strong United Kingdom within the European Union. The benefits of EU membership, including access to the internal market, are hugely important to Wales. We have made clear our preference for Scotland remaining within the UK alongside us.

11. We are equally clear that the United Kingdom will best serve the interests of its citizens if it is grounded on general recognition of the principle of devolution. The case for recognising and extending devolution is based on democracy and delivery. The National Assembly is directly representative of, and accountable only to, the people of Wales. Democratic devolution, replacing the administrative devolution that existed before 1999, enables the Welsh Government to make policy and propose legislation tailored to the needs of Wales, with direct accountability to the Assembly.

12. For this reason, the Welsh Government believes that decisions on matters affecting Wales should be made in Wales, unless there are strong practical or constitutional reasons for reservation to the UK Parliament and Government. This points to both broadening the current settlement and restructuring it on the reserved powers model.

13. There is broad consensus in Wales that “reserved” is the right model. The current conferred powers model in effect grafts a legislature with limited powers onto a set of executive powers originally designed to be exercised by a Secretary of State. As experience has shown, this structure is a recipe for time-consuming arguments between the Welsh and UK Governments about the devolution boundary. It has led to two UK Government referrals in two years to the Supreme Court, challenging the Assembly’s competence to legislate in relation to Welsh local government and agriculture. It is time to move on from this uncertainty and complexity.

14. Most importantly, the reserved powers model is appropriate to a broad devolution of powers, with a presumption of legislative competence for the Assembly unless something is specifically excluded. That is the right model for a democratic Assembly that has strong public support to legislate for Wales, as demonstrated by the referendum in 2011.

15. Reconstructing the Welsh settlement in this way will create coherence with Scotland and Northern Ireland and thus simplify the UK’s constitutional arrangements. Following the Scottish referendum in September this year, it is clear that those arrangements will be subject to a fundamental review, whatever the outcome. Wales will have a strong stake in that process, and the Welsh Government will contribute on the basis of the reform direction set out in this document.

Reserved and devolved powers

16. In a devolved United Kingdom, the fundamentals of the Union are the Crown, Defence and Foreign Affairs, and Macro-economic policy. In addition, our commitment to the welfare state and equal treatment for our citizens requires the pooling of resources and risks on pensions and social security benefits, and securing the effective operation internally of the UK economy and labour market. These are matters to be addressed at “the centre”. Over and above these core areas, there are very few areas of public policy for which the UK Government is or should be responsible across the whole of the state.

17. The devolution arrangements for Wales, for example in relation to policing and justice, should recognise this reality. So, in our evidence to the Silk Commission, we explained why the presumption of devolution set out above applies as much to policing as to other public services. However, given the scale of Wales and the extent of our social and economic integration with England, further devolution should not necessarily mean “stand alone”. There will be areas where both governments agree that the most cost effective and practicable solution is to share systems, as currently happens, for example, with pay negotiations for NHS staff. And where legislative competence is devolved (even after full implementation of the Silk proposals), there will still be occasions where it makes sense for Parliament to legislate on behalf of Wales, subject to the understanding that in such cases it will legislate on these matters only with the Assembly’s consent. This is an important part of the devolved constitutional settlement which serves Wales well, and should continue in a new settlement.

Inter-governmental relations

18. Given the importance we must attach to working effectively with the UK Government and Parliament, we welcome the emphasis which the Silk Commission placed on inter-governmental relations. Good inter-governmental working should be at the heart of the governance of the United Kingdom. In order to deliver most effectively for the people of Wales, we will continue to strive for effective working relationships with the UK Government, at Ministerial and official level.

19. The Silk proposal for a Welsh Inter-governmental Committee (WIC) to oversee matters of mutual importance to the Welsh and UK Governments is an interesting and potentially valuable innovation. Careful thought will need to be given to how this might fit within the current inter-governmental arrangements operating under the aegis of the Joint Ministerial Committee, which represents all four administrations within the UK. Wales however has its own particular needs, and experience has shown that there is an important bilateral agenda which could be usefully taken forward in a Wales focused inter-governmental Committee. This would enable sustained Ministerial oversight of cross-border matters, and ensure on-going review of the devolution settlement as needed, for example, and as suggested by the Commission, in respect of civil contingencies responsibilities where we are clear that the allocation of statutory responsibilities should reflect the reality that, in practice, the Welsh Government takes the lead for Wales in such matters. We believe that the transfer of the Ministerial functions in Part 1 of the Civil Contingencies Act 2004, with full transfer of the necessary resources, is the most effective way of clarifying accountability, and we see the WIC

as a suitable mechanism for progressing this ahead of discussions on the next Wales Bill. We agree with the Commission that this Committee could be established without delay and look forward to the UK Government's proposals in relation to it.

20. Provided there is progress with the WIC, we are not convinced of the need for a statutory Code of Practice to regulate inter-governmental working. The current arrangements, underpinned by the Memorandum of Understanding between all four administrations, already provide a comprehensive code of practice to underpin Ministerial and official discussions. We believe that the current mechanisms, strengthened by a bilateral WIC and by the new Joint Exchequer Committee which will oversee the operation of devolved taxes in Wales, would offer a robust structure for the next phase of devolution.

The Civil Service

21. Both the WIC and the Joint Exchequer Committee will need strong civil service support. The Welsh Government agrees with the Silk Commission's view that a single Home Civil Service, supporting the three Great Britain administrations, aids effective inter-governmental working; we would not support the creation of a separate Welsh Civil Service. The current arrangements, combining our staffs' membership of the Home Civil Service with extensive devolved managerial flexibility, are fully compatible with our plans to continue to develop the Welsh public service as a whole, as part of our public service reform programme. By investing in our regional offices we have spread civil service employment opportunities across Wales.

Financial reform

22. The proposals in the Silk Commission's second report also need to be seen in the context of the financial reform flowing from its first report, published in 2012. This is a key part of modernising our devolution settlement. The new financial framework created by the Wales Bill 2014 will give the Assembly and the Welsh Government greater financial flexibility and enhanced policy tools to respond to the needs of Wales, including much needed infrastructure investment. The Wales Bill provides for:

- the introduction of new Welsh taxes to replace UK stamp duty land tax and UK landfill tax;
- powers to create new devolved taxes on a case by case basis;
- borrowing powers alongside tax devolution (i) for capital investment (up to £500 million in total) and (ii) to manage short term budgetary fluctuations arising from tax devolution (also up to £500 million); and
- partial devolution of income tax, if supported by the people of Wales in a referendum.

23. In a strong United Kingdom, devolution must be underpinned by financial arrangements that are fair to all parts of the Union. It is a long standing principle that resource allocation within the UK should include a fair measure of redistribution, in recognition of the differing needs and resources of each area. It is now widely accepted that the current funding methodology used - the Barnett formula - is no longer appropriate for Wales. The Joint Statement on funding reform issued by the Welsh Government and UK Government (October 2012) is an important step forward to addressing this concern, establishing a new review process to be undertaken in advance of each spending review. It is however too soon to judge whether this will deliver the necessary reform over the longer term.

24. While disappointed that the full package recommended in the Commission's first report is not being implemented by the UK Government, the Welsh Government welcomes the significant progress being made on financial reform. It provides for an important rebalancing of the funding arrangements, and is an appropriate response to the maturing of devolution within the Union. We remain open to consideration of potentially wider financial reforms as devolution across the UK continues to mature and evolve.

Effective democratic scrutiny

25. As the Silk Commission's report demonstrates, effective scrutiny of the exercise of power is at the heart of all democratic institutions. The Welsh Government fully supports a robust scrutiny process in the Assembly. As we look to the future with enhanced legislative powers, it will be essential to take into account the workload and expertise of the Assembly, and how to increase its capacity in order to maintain and improve standards of scrutiny.

26. In fulfilling this scrutiny role, the Assembly has come a very long way since 1999, as it has adapted to the changes in powers and structures. The first Assembly had a far narrower remit than the current Assembly, let alone the Assembly of the future. Then, the scrutiny role of the 60 Assembly Members related to secondary legislation and executive powers. In thinking about a new Government of Wales Act in the next Parliament, the implications of broader powers for the capacity of the Assembly will have to be built in to our consideration at each stage. Capacity will have to be addressed holistically in the wider context of Wales' political representation at Westminster and in local government. The key issue is to consider how the people of Wales should be most effectively represented at each level of government, to ensure that the views of the Welsh public are heard and acted upon by their elected representatives.

27. The Silk recommendations relating to the workings of the Assembly are for the Assembly itself to consider. The Welsh Government does however support the removal of the statutory duties placed on the Secretary of State by the Government of Wales Act 2006. These place the Secretary of State in a supervisory role which is now out of date. There is no similar role for the Secretary of State for Scotland or Northern Ireland, and with full legislative devolution in Wales, this role is no longer appropriate.

28. We support the Silk Commission's vision of an Assembly with enhanced legislative powers and with effective capacity to scrutinise the Welsh Government so that we deliver the best policies and legislation for our citizens.

Costs

29. The expanded legislative competence we are seeking for the Assembly would carry wider executive responsibilities for the Welsh Government. It will be crucial for the two Governments to negotiate a fair budget transfer of both running costs and programme budgets to go with these new responsibilities. We emphasised this in our evidence to the Silk Commission and they have endorsed this principle.

30. In our evidence we noted that past experience suggests that negotiations seldom result in transfers being fully funded. We suggested that independent arbitration might be needed, and continue to believe that a mechanism should be available, if necessary, should disputes arise which might otherwise delay devolution unduly.

31. As set out in Part 3, we support the Commission's recommendation that the constitutional reforms they recommend should be enacted in time to be operated by the Assembly that will follow the 2021 election. This timetable will allow time for proper planning and phasing of the necessary changes, including negotiating the relevant budget transfers.

32. We welcome the Commission's staged approach to further consideration of the implications of devolving the probation and prison services, and the wider justice system. The later reviews they envisage (by 2018 and 2025) will allow for a detailed analysis to be agreed jointly by the two governments. Given the pressures on our budget, all additional responsibilities will have to be planned for very carefully. On the Silk timetable, and given the separate consideration of the criminal justice system, the reforms we are calling for represent a manageable evolution of our current responsibilities.

Part 2: Powers to achieve our aspirations for the long term

33. This section provides a broad overview of key achievements since 1999, and sets out how broader powers, as recommended by Silk but going further in some areas, will enable us to deliver our ambitions for Wales.

Natural Resources

34. Wales has an abundance of natural resources – deep ports, good conditions for renewable energy both on land and at sea, high-carbon soils, and dramatic landscapes. Used well and managed to ensure their resilience, these resources provide an enduring and distinctive foundation for our economy and society. Through taking decisions in Wales about the use of these resources, and by managing them as an asset that can deliver multiple benefits, we will be able to ensure the greatest return for the people of Wales both now and in the future.

35. Last year, we established Natural Resources Wales (NRW) to deliver an integrated approach to the use of our natural resources. In the current legislative programme, we will introduce an Environment Bill which will begin to reform and simplify the existing complex legislation in order to strengthen NRW's ability to deliver sustainable use of our land, water and air.

36. We have already shown what is possible as a small, well-connected, modern nation. We have been able to give leadership to local authorities and communities to transform our recycling performance to become the best in the UK, and to drive multi-million pound investment in modern waste facilities. We have invested significantly in flood risk management, taking innovative approaches wherever possible to work with the natural environment rather than against it. We have set a clear planning and regulatory framework for the delivery of renewable energy that has seen a capacity increase of nearly 50% over the past 3 years. We have worked with energy developers to ensure that their investment supports communities and jobs in Wales.

37. Additional, clearer, powers, as proposed in the Silk report's recommendations, will provide fresh opportunities to realise our goal of making 'green growth' a key driver for Wales' future prosperity. Consistent powers over water and sewerage as Silk recommends, aligned with the Welsh border, will enable us to manage these vital resources and infrastructure as a whole, making sure the regulatory regime is fit for Wales' needs and ensuring we reap the long-term benefits of water as an increasingly scarce commodity.

38. The extension of existing responsibilities for marine licensing and conservation functions to the offshore area, to match those for marine planning and fisheries, will simplify the marine planning process and encourage an integrated approach to how we manage our marine resources and stimulate 'blue growth'. Additional responsibilities for energy consenting will allow a simplified and streamlined approach to development and regulatory consents that delivers maximum value for Wales. We welcome the direction set by Silk but believe the case for a 350 MW threshold has not been made. This would create complexity and uncertainty and we remain convinced that full consenting powers, for all projects except nuclear, would provide the coherence and certainty we need to fully deliver our Green Growth agenda.

Health and Well-being

39. Powers in relation to health and social care services are already devolved and we agree with the Commission that no changes are needed in this area. But there is a much wider public health agenda, which we addressed in our evidence, and where we see a need to go further than Silk recommends, for example in relation to alcohol licensing.

40. Promoting a healthier Wales is one of the core purposes of Welsh governance, and as part of this we remain focussed on tackling health inequalities. The health of people in Wales is improving, but not fast enough. Many lives are still blighted or cut short by preventable illnesses. Factors such as persistent smoking rates, harmful alcohol consumption, high levels of obesity and low levels of physical activity, mean new challenges in improving health. We have ambitious plans to accelerate the pace of improvement and share it more equally.

Broader powers will allow us to do more, building on the progress already made in legislating for health, and supporting our programme of public services reform.

41. Wales has led the way in this area. We were the first UK country to vote in favour of a ban on smoking in public places, we have acted to prevent the use of sunbeds by young people, and introduced a mandatory food hygiene ratings display scheme. The Public Health Bill under development will go further in legislating for preventative actions which will result in significant long-term benefits to individuals, as well as relieving pressure on the health service. The Future Generations legislation will deliver on our commitment to a 'Health in all policies' approach, and will require public services in Wales to contribute to healthy, thriving communities, a healthy environment and a vibrant culture.

42. In seeking broader powers, we want to remove legislative barriers to further action to promote a healthier Wales. The Licensing Act 2003 is a good example – this non-devolved legislation prevents local authorities from taking health into account in licensing decisions. We see no reason why this area should be reserved in our reformed settlement. Experience from Scotland demonstrates that licensing authorities would support our plans to reduce the density of alcohol outlets, and control over licensing could assist us in taking forward our proposal to introduce minimum alcohol pricing which is a key policy action in reducing alcohol related harm.

43. Broader powers will help us to protect vulnerable people, by enabling more effective action across public services. The police in Wales collaborate effectively with other public services in our prevention and protection agenda in relation to children and young people and vulnerable adults. But when we have tried, through our Social Services Bill (now the Social Services and Well-being (Wales) Act 2014) and draft Future Generations legislation, to put this collaboration on a statutory basis, there have been delays in getting the necessary consents from the UK Government. We welcome the Commission's recognition of this problem, and their recommendation for a presumption of prompt consent: our aim is to achieve a settlement that minimises the need for consent on these issues.

Economy, Transport, Infrastructure

44. The Commission's recommendations for enhanced financial powers in their Part 1 report, discussed above, will give us valuable levers to support economic growth and increase our investment in key economic infrastructure such as transport and communications. Beyond this, the Commission recommend no changes in economic powers, but they make significant proposals for change in transport, which we support.

45. Devolution has enabled us to shape a strong and distinct agenda for Wales to support growth and jobs. It gives us the ability to better direct growth to drive our economy. It enables us to better tailor policies to meet local needs, and to be more active and accountable. It provides a strong basis for delivering long term growth, whilst enabling a flexible approach to respond to ongoing changes in the economy.

46. Devolution enables fresh thinking on how we align the powers and levers within our control. It enables us to develop a more strategic approach to economic development, joining up the levers at our disposal, to provide the conditions to enable the private sector to flourish. It provides more certainty and confidence in a sustainable funding stream to enable investment, jobs and growth.

47. There are also significant benefits from working directly with our partners and with business itself, with simplified decision-making, greater accountability and a more responsive approach across the Government. The economic downturn brought stakeholders together in a new spirit of partnership, through the Economic Summits that gave rise to key initiatives such as Re-Act and Jobs Growth Wales. That partnership approach remains strong, as does the ability of companies to develop effective communications with decision-makers, as shown by the anchor companies programme.

48. On transport, the Commission has supported our proposals for devolution of ports policy, and bus and taxi regulation. Their recommendations for devolution of speed and drink drive limits, again reflecting our evidence, will give us enhanced powers to promote road safety, which is a priority for us.

49. On rail, we welcome the Commission's support for further devolution which we are progressing with the UK Government now and expect to proceed to a timetable in advance of the wider Silk proposals, subject to a fair financial settlement.

50. Transport is an enabler for economic growth and crucial in providing access to jobs and services wherever someone lives, but transport also has an important role to play in supporting healthier communities. We have already legislated to strengthen that role through the Active Travel (Wales) Act 2013, which aims to deliver a step change in levels of walking and cycling in Wales.

51. Further devolution will enhance our ability not just to improve the transport system in Wales, but to do so in a way that maximises the contribution of better transport connectivity to the health, well-being and prosperity of people and businesses.

52. The Commission makes no recommendation on the Community Infrastructure Levy (CIL); we will continue to make the case for devolution in order to give us the powers to tailor a CIL charge to assist in delivering local and strategic infrastructure, and support our distinct approach to development planning. The devolution of tax powers in the current Wales Bill has strengthened this case.

Culture Sport and Broadcasting

53. Culture, including our arts and heritage, and expressed through our two national languages, is central to devolution. In addition to the practical benefits culture brings in terms of enriching education, supporting life-long learning and community regeneration and underpinning tourism, it helps to shape and communicate shared values and senses of identity. It is therefore important to the self-confidence and capacity not only of individuals but also of communities, to meet future challenges. We are working to widen access to culture, to support the future of the Welsh language, and to give everyone in Wales the chance to appreciate what we owe to the past, while also fostering an inclusive sense of identity that is comfortable with cultural diversity and is open to the world.

54. Sport and physical activity are also central. Widening participation in sport, and encouraging people to be more physically active, whether in their daily travelling, or in active recreation, are crucial to our efforts to promote healthier lifestyles. Wales' special landscapes have a particular role to play in supporting this agenda, and are vital to our tourism.

55. The main tools to pursue these agendas are already devolved, although work in drafting the Heritage Bill has revealed some constraints where devolved competence is lacking, for instance on safeguarding World Heritage Sites in Wales.

56. The scale at which broadcasting operates in the digital age makes it sensible for policy and regulation to remain a reserved matter. The Welsh Government welcomes the Commission's recommendations on

broadcasting appointments and for scrutiny of the BBC. They will help to improve devolved accountability so that broadcasting not only meets the needs of Wales, but also communicates Welsh issues and identity effectively to wider audiences within the UK. But the recommendation on the devolution of the DCMS element of funding of S4C carries risks, unless it is accompanied by strong safeguards about the continued overall funding of the channel. This is a matter that will need further detailed discussion to ensure the well-being of the Welsh language and the Welsh media.

Children and Young People

57. Devolution has enabled us to put in place a whole government approach to children and young people in Wales, putting their rights and well-being at the forefront of policy and legislation. We have legislated to fulfil our commitment to implement the principles of the United Nations Convention on the Rights of the Child (UNCRC). The Commission's recommendations to broaden the devolution settlement will allow us to apply these principles more widely across Government.

58. Our existing powers have enabled us to:

- be the first UK country (and one of the first in the world) to embed the principles of the UNCRC into domestic legislation;
- be the first UK country to establish an independent Children's Commissioner to protect the rights of children and young people;

- deliver better outcomes for children through Flying Start, Families First and Integrated Family Support Services;
- make Article 31 of the UNCRC a statutory requirement, giving children and young people the right to enjoy play, leisure and recreation, one of the first countries in the world to do so;
- create a statutory duty on public bodies to tackle child poverty;
- implement statutory duties that ensure that children and young people participate in decisions that affect them, and
- improve the service provided to children and families following the devolution of CAFCASS.

59. The broader powers Silk recommends in relation to youth justice and, subject to further review, probation, will allow us to build on the practical collaboration that is already happening on the treatment and rehabilitation of young people who offend, as discussed in the justice section below. This will ensure coherence with our wider programme of public service reform, and ensure that the needs of young people who offend are fully integrated into local service planning. Our Jobs Growth Wales programme is an investment in young people's future, with benefits to their health, well-being and future prospects. With broader powers we will continue to seek opportunities to act in the interests of our young people, through proactive and preventative action across Government.

Education, Skills and Employment

60. In the same way, devolution has enabled us to develop an education and skills agenda that is geared to the needs of Wales' young people and their families. With existing powers, we have put in place innovative programmes across the age range, such as the Foundation Phase and our Apprenticeship programmes, traineeships and Jobs Growth Wales scheme, as well as investing to make higher education affordable to all Welsh students.

61. We are developing a new Education Improvement Plan which will build on the current Improving Schools Plan. This covers education from the age of 3-16 and is targeted at leaders throughout the education system in Wales, from schools, local authorities and regional consortia through to government. It will make clear what needs to be achieved at every level of our education system.

62. The Commission recommends a broader settlement, where teachers' pay and conditions would not be reserved – these additional powers could support our plans to raise standards and develop the profession. We would only be able to take these powers on with sufficient transfer of resources from UK Government. We would deploy these powers in the interests of learners and teachers, working through the well established partnership approach we have built with the workforce in Wales, which forms a key plank of our public service reform agenda.

63. The Welsh Government's Policy Statement on Skills, published earlier this year, set out a vision for employment and skills policy in Wales over the next 10 years, identifying the action needed by all stakeholders to develop a resilient, responsive and sustainable post-19 skills system.

64. We followed this by consulting on Proposals for Co-investment in Post-19 Adult Skills Delivery, designed to encourage employers to raise investment in the skills of their workforce. Responses will inform the Skills Implementation Plan to be published later this month. The Plan will set out the action on skills needed to raise productivity and reduce barriers into employment in Wales.

65. Our employment programmes operate on the interface with the non-devolved Work Programme and other DWP programmes. This is not straightforward - our voluntary approach to training, which we believe is the most effective, does not support the sanctions approach pursued by the UK Government. We note the Commission's recommendation that the UK Government should consider an enhanced role for the Welsh Government in the administration of DWP policies in Wales, and look forward to the UK Government's response. In the context of wider constitutional reform, if the devolution of the Work Programme, and/or other benefits are proposed, we will look at this in the interests of Welsh job seekers, on the basis that any changes will be by agreement and fully funded as discussed above.

66. In the meantime, the Welsh Government is committed to working jointly with DWP to explore opportunities for better alignment of our respective employment and skills interventions where possible. We have established the Employment Working Group: Wales to focus on this joint agenda with accountability to the Welsh Government and DWP Ministers.

Fairness and Equality

67. Devolution has enabled us to take a distinct approach to equality, reflecting the importance we attach to advancing fairness and inclusion and to tackling inequality in Wales.

68. Existing powers have enabled us to make significant progress on equality. We were the first government to bring in equality duties, for local authorities, health boards and other public sector organisations to ensure that they delivered on the Equality Act 2010 public sector duty. We are taking forward an action plan to increase diversity in public appointments by working collaboratively with other organisations and building on effective practice. The Welsh Government has led on action to tackle hate crime, securing collaboration across devolved and non-devolved organisations in partnership with the third sector. We are also taking forward the Framework of Action for Independent Living for disabled people, and are introducing a duty on local authorities to provide adequate sites for Gypsies and Travellers.

69. Strengthened powers would enable us to do more to realise our aspirations for greater fairness and equality. It is important that these include powers in relation to the general public sector equality duty, to ensure that equality is embedded at the heart of the devolved public service in Wales. We want our public appointments to reflect the communities they serve - broader powers would allow us to take the action needed to ensure greater diversity.

70. In order to support this work, and given the distinct approach to equality in Wales, it is also important that the Equality and Human Rights Commission in Wales has functions that are specific to a devolved context, with greater accountability to the Assembly.

71. The causal factors behind poverty and inequality are closely inter-linked and need to be tackled together; we have been working to inter-weave our action on both. Greater powers would allow us to make stronger links between the framework on fairness and equality and our action to tackle poverty. Both are important elements of the future wellbeing of Wales as articulated through our shared goals within the Future Generations legislation.

Policing and Justice

72. We welcome the Commission's recommendations for the devolution of policing and youth justice, with staged review of probation and policing by 2018, and wider justice in time, subject to a sufficient transfer of resources.

73. The purpose of extending devolution to cover policing and criminal justice is to enhance our ability to respond to crime in Wales, with democratic accountability to the Assembly. This will enable an approach to prevention and rehabilitation that reflects our public service values, and maximises collaboration with devolved services which have a direct impact on offending, such as access to treatment for substance misuse and mental health services, housing, and employment and training.

74. With our existing powers, we are working across Government to promote strong and safe communities, including for example, legislating to tackle violence against women. The direction of travel recommended by Silk will enable us to build on this approach.

75. We welcome the careful analysis by the Commission of the case for the devolution of policing, as a crucial front line public service, and their conclusion, based on evidence, that devolution would strengthen accountability, autonomy and enhance opportunities to adapt even better to local needs. Our investment in Police and Community Support Officers has underlined our commitment to local community policing and to collaborative action to tackle the causes of crime, and devolution would enable us to build on this approach. Transferring responsibility for the policing service – the only emergency service which is not devolved – is consistent

with the purpose of devolution, which is to bring public services closer to, and make them more directly accountable to, the communities they serve. Devolution would simplify arrangements in areas such as forensic medical services where the current settlement represents a barrier to practical improvements.

76. We welcome the Commission's agreement that devolution need not mean standing alone, and that practical arrangements should be made for sharing specialist services such as the Police College, Her Majesty's Inspectorate of Constabulary, the Independent Police Complaints Commission, and the Police National Database. Cross-border co-operation between English and Welsh forces would continue to be essential, whilst the UK-wide response to threats from serious and organised crime through the National Crime Agency would be unaffected.

77. On the devolution of the other elements of the criminal justice system, probation, prisons, and justice more widely, we support the staged, joint approach proposed by the Commission. This will allow the practical implications, including costs, to be fully considered, and changes to be planned carefully. We welcome the recommendation for joint work with the UK Government to examine the practicalities of devolving prisons and probation, and for a formal mechanism for Welsh Ministers to contribute to policy on adult offender management, and we are ready to respond to any proposals the UK Government makes in response. We will be seeking a new settlement in which these elements will be reserved initially, but which will provide for devolution in future without the need for further primary legislation.

78. The Commission recognises the strong case for administrative devolution of the youth justice system. Youth Offending Teams (YOTs) include devolved agencies (health, social services and education), and Local Authorities have a lead role in establishing and maintaining YOTs in their areas. Devolution would allow further integration into local authority provision for young people. Youth Justice is also one of the small number of children's policy areas which are not already devolved. Devolution will ensure a holistic approach to children and young people in the youth justice system in Wales, in line with the UN Convention on the Rights of the Child, and will ensure youth justice is integrated into our wider children's policy agenda, as discussed above.

79. Turning to administrative justice, we are stepping up our capability and expertise as an integral part of our growing legislative capacity. We have consulted on a programme of fundamental reforms of the devolved tribunals in Wales, with a view to putting our arrangements on a sustainable footing for the long term, and with the possibility of primary legislation coming forward in the next Assembly. The proposed reforms will strengthen access to justice and ensure effective redress.

80. The growing body of Welsh law means that we already have a distinct legal identity, which forms part of the organic development of a Welsh jurisdiction. The Commission's recommendations for further administrative devolution in the court system are consistent with this organic growth and we welcome them. These can be implemented without delay and we look forward to the UK Government's response. The provisions in the Wales Bill 2014 for Welsh Ministers to refer law reform proposals to the Law Commission are a welcome additional step

Part 3: Looking ahead

81. The Commission on Devolution in Wales was a UK Government Commission and it will be for the UK Government to respond. The Welsh Government hopes to see action on the Commission’s legislative recommendations taken during the first session of the new Parliament. We look to the UK Government to publish a draft Wales Bill early in the next Parliament to allow for effective pre-legislative scrutiny as was helpfully undertaken for the current Wales Bill. This would allow Parliament to legislate and enact the Bill by the end of the 2017-18

session. As we set out in our evidence to the Commission, we believe that the new Wales Bill, including a move to the reserved powers model and enhanced legislative powers, should be enacted in time for the Assembly that will convene following the 2021 Assembly elections. We also believe, as the Commission sets out, that there is scope for earlier transfer of executive functions and, as we have said, the putting in place of the Welsh Inter-governmental Committee which we do not believe requires a statutory basis. The timetable we would like to see for the implementation of the Commission’s recommendations is summarised below:

Proposed timetable for constitutional reform 2014-2021	
2014	Possible UK Government response to the Silk Commission’s recommendations
2014-15	Welsh Inter-governmental Committee established
2015-16	Negotiations on provisions of Wales Bill and transfer of specified executive powers
2016	White Paper on restructuring and broadening the Welsh devolution settlement; publication of draft Wales Bill for pre-legislative scrutiny
2017	Wales Bill introduced
2017-18	Wales Bill enacted
2021	New National Assembly elected operating under the reserved powers model

Conclusion

82. Constitutional reform is vital for Wales’ future within the UK. We believe that a UK Government that is committed to developing and supporting the Union will move with pace and purpose to put its devolved constitution onto a firm footing for the long term. The Welsh Government stands ready to work with the present and future UK Governments to achieve that.