



# A separate jurisdiction for Wales

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**The First Minister announced on the 7 October that the Welsh Government will launch a public debate early in 2012 to explore the views of interested parties as to whether Wales should proceed to the establishment of a separate legal jurisdiction. It intends to initiate the debate with a Green Paper early in the New Year. Scotland and Northern Ireland already have separate jurisdictions, should Wales follow? As part of this debate, the interfacing question as to whether Wales should have its own criminal justice system, as do the other devolved countries, is also likely to be explored.**

The assumption of greater law making powers by the National Assembly for Wales, following the Spring referendum, has accelerated the move towards the establishment of a separate Welsh jurisdiction. The consultation is likely to explore whether, or to what extent, Wales should now have its own complete legal infrastructure. Part of the consultation will be to consider what the precise mechanisms for achieving this could be. The practical effect could be the eventual establishment of a separate Wales Judiciary and court system supported by the development of an independent legal profession within Wales to service it.

In an earlier debate at the time of the Referendum, the First Minister made it clear his views that a yes vote meant a constitutional anomaly would be created with two law making powers existing under one legal system.

Pointing out the increasing divergence between Welsh law and the law in England, particularly in the field of education, health and social care, the Minister in his recent announcement has now posed the question:

“How far do we go down the road of creating a distinctive legal jurisdiction for Wales? Is it inevitable, now that the Assembly has primary law-making powers, that we must move in this direction and if so what would we need to achieve it? What would the benefits be?”

The differences between England and Wales statutory and regulatory law already mean that England and Wales case law will inevitably increasingly diverge as it is applied to the two nations. This is particularly so in devolved fields such as health and social care. NHS bodies may well want to join in the debate and to contribute to the forthcoming consultation. The Public Law team at Morgan Cole are happy to facilitate any discussions which Boards may choose to have.

For any further information, please contact a member of the team:



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