

# Consultation on the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

Tystiolaeth i'r <b>Pwyllgor Plant, Pobl Ifanc ac Addysg</b> ar gyfer craffu Cyfnod 1 (Saesneg yn unig)	Evidence submitted to the <b>Children, Young People and Education Committee</b> for Stage 1 scrutiny
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**Organisation:** Welsh Chief Officer Group and All Wales Policing Group

## 1 The Bill's general principles

### 1.1 Do you support the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill?

Yes

### 1.2 Please outline your reasons for your answer to question 1.1

*(we would be grateful if you could keep your answer to around 1000 words)*

The Four Welsh Police Forces in Wales have noted that the Bill to remove the Defence of Lawful Chastisement is intended to protect and promote Children's rights in line with the United Nations Convention on the Rights of the Child. Policing within the UK currently follows national strategy provided by the National Police Chiefs' Council, and the National Chief's Council Lead for the Child Centred Policing portfolio is currently reshaping the current strategy which will be based on the UNCRC Rights of a Child. We therefore support the approach to removing the physical defence of Lawful Chastisement of a child in Wales.

Whilst supporting this bill, we conclude that further careful consideration would be required in relation to the following potential barriers.

### 1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?

*(we would be grateful if you could keep your answer to around 500 words)*

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## 2 The Bill's implementation

### 2.1 Do you have any comments about any potential barriers to implementing the Bill? If no, go to question 3.1

*(we would be grateful if you could keep your answer to around 500 words)*

We recognise the need for a sufficient and prolonged time period within the planning of this change to allow a comprehensive awareness and education campaign to explain to the public regarding the removal of this defence. This education campaign must include information on how the removal of reasonable punishment will benefit the long term objectives of Welsh Government, and allow the public to understand how this will improve the wellbeing and safety of children. This will assist the cultural and social change required to make the 'smacking' of children unacceptable within a progressive society.

All reports of alleged criminal behaviour currently result in the recording of a 'crime' which include allegations where a parent has 'smacked' a child. This recording can be disclosed when CRB/DBS checks are undertaken whether or not the crime is prosecuted or indeed proven. If this Bill is formally introduced and passed, we would need to consider how we record such matters whilst continuing to ensure our crime recording in Wales is consistent with the rest of the UK and in line with Home Office Counting Rules.

Upon removal of the defence, we are concerned regarding the practicality of cross-border issues, specifically in terms of DBS checks and how the proposals would work for someone who lives outside Wales who is charged for an offence within Wales.

The Explanatory Memorandum for the Bill outlines references to joint working between partner agencies which includes involvement from the Police. Whilst it is clear that there is no legislative competence to impose duties upon the police, we presume that the further clarification to be provided will impose duties upon local authorities and other partners to cooperate with us.

The support available upon the removal of the defence is predicated upon an effective multi-agency approach being in place in all areas. It is outside our control to mandate the same and we are conscious of the other pressures upon all public services.

Additionally, the risk of malicious reporting against parents or professionals due to disputes or disagreements within either personal or professional settings needs to be addressed and considered further.

As the removal of the defence will only be applicable in Wales, consideration is needed between the Welsh Government and the Four Welsh Police Forces with regards to how a visitor from England would be made aware that the defence for reasonable chastisement does not exist in Wales when it does in England. To contextualise this, during summer

month's areas of Wales experience an influx of tourists. During their stay in Wales they may 'reasonable chastise' their child to the degree afforded by law in England. Taking this point further, clear guidance and training will be required for our frontline responders to apply their professional judgement in situations as outlined above.

Policing in Wales follows the same guidance on Disclosure as part of a Criminal Records Bureau Check as England. Therefore, clarity is required on the potential impact the changes to the defence would have on a person depending on which country they reside in. For example, an allegation to Police that a child has been 'smacked' would result in a crime being recorded (in line with the National Crime Recording Standards and Home Office Counting Rules). In advanced CRB checks, the recording of a crime can be disclosed whether or not the crime is prosecuted or even proven. In certain circumstances, a crime in England where the defence will remain may be closed with little investigation due to the defence, where in Wales the removal of the defence will result in a further and more detailed investigation.

In a similar vein to CRB, Policing in Wales utilises computer databases shared with all forces in England and Wales. The removal of the defence may create a situation where different level and detail of information is uploaded and shared according to the country of residence of the person.

Notwithstanding the removal of the defence is welcome, in terms of Adverse Childhood Experiences it is our view that the implementation team should consider that in some cases the evidence of a child against their parent would be needed to support and proceed with a prosecution. In these cases, to prevent interference with the prosecution and as part of a safeguarding measure the child or parent would not be able to reside together. This may have an unintended consequence on our partner agencies who will be required to provide alternative accommodation for the child and in single parent families this is even more acute. Whilst the assault of the child and their immediate safeguarding concerns are of paramount, the impact (emotionally) that the removal of a parent(s) from a family setting may have on the child should not be underestimated. As a result, Safeguarding teams need to be resourced for referrals to ensure there is no deviation from other safeguarding business.

Whilst we recognise that the current number of crimes recorded in Wales whereby lawful chastisement has been used as a defence is relatively low, we would need to consider how this Bill will impact our current resources within the specialist departments that record and investigate such crime and referrals. This may require us to uplift the resources available in such departments which could therefore have a financial impact or possibly effect staffing levels on the frontline.

## **2.2 Do you think the Bill takes account of these potential barriers?**

*(we would be grateful if you could keep your answer to around 500 words)*

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## **3 Unintended consequences**

### **3.1 Do you think there are there any unintended consequences arising from the Bill? If no, go to question 4.1**

*(we would be grateful if you could keep your answer to around 500 words)*

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## **4 Financial implications**

### **4.1 Do you have any comments on the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)? If no, go to question 5.1**

*(we would be grateful if you could keep your answer to around 500 words)*

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## **5 Other considerations**

### **5.1 Do you have any other points you wish to raise about this Bill?**

*(we would be grateful if you could keep your answer to around 1000 words)*

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