

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

Tystiolaeth i'r Pwyllgor Plant, Pobl Ifanc ac Addysg ar gyfer craffu Cyfnod 1 (Saesneg yn unig)	Evidence submitted to the Children, Young People and Education Committee for Stage 1 scrutiny
--	--

Organisation: The Welsh NHS Confederation

1 The Bill's general principles

1.1 Do you support the principles of 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 proposed legislation will encourage the positive use of parenting and more acceptable forms of behavioural management. The Bill also supports the general principles of the United Nations Convention on the Rights of the Child (UNCRC), which serves to protect children from all forms of violence.

Our members note that the emotional and mental harm that some children experience at a young age can be severe and long-standing, and so any measure that seeks to protect children and young people from the harmful effects of this harm are to be welcomed.

By removing the defence of reasonable punishment, the Bill also provides greater clarity around the legality of providing a safeguarding service to children and families. This can only enhance the level of protection provided to children and young people.

When caring for children, it is important to ensure that children can develop in an environment with clearly defined boundaries. This supports child development and future transitions into adulthood. Our members note that the differences between keeping a child safe and perpetrating abuse on a child are stark. For some parents, the transition from using physical interventions to using alternative behaviours can be a challenge and may require health visitors and school nurses to support early intervention approaches. In addition,

teaching children about healthy relationships in an education environment will be important to ensure change as a result of the introduction of legislation.

In terms of the potential impact of the Bill on public bodies, our members note that the Welsh Government have engaged with “relevant public bodies, including the police and social services” (Explanatory Memorandum, para 4.12). This needs to be strengthened to include NHS bodies so that it can be embedded effectively into Health Board procedures on a local level, particularly in relation to safeguarding children training, and at a national level, through NHS Trusts. On an all-Wales level, these principles will also need to be embedded into the National Protection Procedures.

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)

Overall, we feel that legislation is needed to deliver the overarching objectives of this Bill. Having legislation in place removes the possibility of confusion around the level of intervention that is permitted and therefore provides a greater level of protection to vulnerable children. Evidence suggests that parents who regularly experienced violence when they were children are more likely to act in a similar manner towards their own children and often take the view that “it did me no harm”.

The proposed Bill is a clear demonstration that Wales is working towards being a forward-looking nation that seeks to stamp-out historical attitudes towards how to chastise children that were, in many cases, then leading to significant emotional and mental harm to children and young people. The Bill is also part of a welcomed cultural shift that seeks to remove the view that the use of force (‘smacking’) in a child’s early development is synonymous with discipline.

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)

The introduction of the Bill in isolation will not achieve change; societal change is only achieved with sustained programmes of promotion and support. This will have a cost and resource implication for health practitioners working with families, particularly those working with vulnerable families and groups. Furthermore, ongoing public campaigns throughout the

Bill's implementation are vital to achieving positive engagement between service users, the NHS and other public sector staff, which will need to be effectively managed and delivered across sectors. Against this background, we would suggest that an implementation group be established to oversee the early implementation stages of the proposed Bill.

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)

The Explanatory Memorandum largely addresses the points made above but does not provide sufficient clarity around the definitions of what is considered acceptable behaviour towards children (particularly in the case of vulnerable children and young people). Greater clarity would also be welcomed around some interchangeable terms e.g. "physical punishment" and "corporal punishment".

In addition, the Explanatory Memorandum does not address the resource costs (both in terms of finance and capacity) that would be required to implement the legislation across service users, carers and NHS staff e.g. information leaflets, support networks etc.

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)

A possible unintended consequence of the Bill could be a significant increase in demand for services that aim to support parents and guardians in providing alternatives to physical discipline. Examples of these include 'The Incredible Years' and 'Triple P' programmes. This support is currently in the form of universal service provision, universal targeted or early intervention programmes. These resources may experience higher demand once the defence of reasonable punishment is removed under the proposed Bill.

The Bill may also result in increased demand for safeguarding children's reports to social services and the police, which will require monitoring. This would likely impact health resources as the safeguarding team support health professionals in the safeguarding process.

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)

Costs related to the education and training of staff within the health and education sectors will be the main financial implication of the Bill. As mentioned above, the increase in demand placed on social services brought about by a potential increase in the number of safeguarding children's reports must be considered a financial implication too given the challenging financial environment that local government services are currently experiencing.

The Welsh Government state that they plan to build and maintain relationships with individuals and organisations to ensure that affected parties understand the changes that are anticipated under the new legislation. While we are supportive of this general principle, there needs to be clarity around the roles and responsibilities of affected parties and how the proposed changes will affect their duty to report under the Social Services and Well-being (Wales) Act 2014.

The impact on Local Authority Single Points of Access (SPOA) will also need to be considered given the likely increase in cases they would receive under the proposed Bill. There is a need also to ensure a consistent approach to referrals made to statutory services, which would bring with it some financial implications for NHS bodies, local government and partner agencies.

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)

The Welsh Government and the National Assembly for Wales have not shied away from enacting progressive, forward-thinking legislation in recent years. The most recent example of this is the smoking ban, which is to be extended to ban smoking outside hospitals and schools by summer 2019. Other recent examples include the Public Health (Wales) Act 2017, the Well-being of Future Generations (Wales) Act 2015 and the Social Services and Well-being (Wales) Act 2014. Wales also became the first UK country to introduce the plastic bag charge in 2011, which has reduced plastic bag usage by 70%, and Wales' stance on the 'opt in/opt out' organ donation system is another example of progressive policy that has been enacted. These examples provide an excellent backdrop to this legislation and we hope that the Assembly will continue to act in this vein when the proposed Bill is debated.

Finally, the Explanatory Memorandum does not provide guidance on a situation where a Welsh child experiences physical punishment outside of Wales. Our members would appreciate guidance on this point.