

# 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:** Cwm Taf Morgannwg Health Board

## 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)*

As a Public Service, committed to positive outcomes for children, young people and families, Cwm Taf Morgannwg University Health Board (CTMUHB) believes that the Principles of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill is to be supported for the following reasons:

Children's Rights (UNCHR)

This Bill provides a clear message that the rights of children and young people are recognised, prioritised and that they are given the same constitutional privileges and protection as adults in Wales. This can only be achieved through prohibiting the use of physical chastisement as a method of managing children's behaviour.

It can be considered to be an extremely positive Bill as the United Nations Convention of the Rights of the Child is central; specifically article 19 (recognition of the right of the child to respect their human dignity physical integrity and equal protection under the law ).

Removing the defence of reasonable punishment will give greater protection to children and help safeguard and promote the health, development and well-being of the most vulnerable members of our population.

Attachment parental capacity and adverse childhood experiences (ACES):

The beneficial evidence of positive attachment and positive parenting is well founded and as such is a cornerstone to the work of key practitioners in early years services such as Midwives, Therapists, other key professionals including Paediatricians and Specialist Community Public Health Nurses (i.e. Health Visitors and School Health Nurses).

This Bill will therefore support the work of Midwives, Paediatricians and Health Visitors particularly; reinforcing to parents that managing their children through the principles of positive parenting will develop carer's confidence in dealing with behaviours in the most appropriate, loving way and without resorting to ineffective physical punishment.

Abusive parenting (which includes physical abuse) is also recognised as an ACE. The impact upon children who experience ACES, with stressful childhoods are more likely to develop health harming and anti-social behaviours, perform poorly educationally and more likely to become involved in criminal activity ( Public Health Wales, 2016)

The Bill therefore be an enabler and will be congruent with public health practitioners' professional values around child care and is reflected in the ethos of the Healthy Child Wales Programme (HCWP WG 2015)

Culture:

There are a number of countries that have outlawed the use of parental physical chastisement with Sweden being the first in 1979. A review of Sweden's ban on corporal punishment; Never Violence: Thirty Years on from Sweden's abolition of corporal punishment (Government Offices, Sweden & Save the Children Sweden, 2009) continues to reinforce the value of such legislation, reporting that;

'Child rearing without conflict does not exist and there are no perfect parents. It is about a mutually respectful relationship and it is the responsibility of the adult to teach the child how to solve conflict without using violence, threats or intimidation. It is the Governments responsibility to create the necessary conditions for non-violent and non-abusive child rearing practices, providing parents with the support and help they need to be good role models for their children'.

In Wales, although there is evidence to suggest that attitudes to the use of parental physical chastisement have shifted significantly from what was once thought to be acceptable practice, it is recognised that some parents may need greater support in understanding and developing more positive styles of parenting. Winning hearts and minds of some parents and carers requires a cultural shift regarding parental attitudes and behaviours and this Bill should facilitate an acceleration in parental attitude change.

Management of the Bill:

Undertaking a universal multi – layered approach to reinforcing existing models of positive parenting is critical and should commence with the education of our children and young

people through to the ante-natal period when parents are most receptive to receiving health promotion messages. Evidence based positive parenting interventions delivered within the early years can be continued to support parents of children of all age groups from the pre-birth period to managing older children and young people.

Across Wales media campaigns such as Parenting: Give It time ( WG 2015) are essential as it will equip parents to develop tools to support their parenting in addition to enabling the public sector and third sector to enhance this framework and deliver consistent messages across Wales. Whilst prevention programmes are critical the legislation has to deliver clarity in terms of its application, a lead organisation such as Public Health Wales, should take the steer in driving forward the required changes across Wales.

### **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)*

Yes, legislation is required to ensure that the physical punishment of children is unacceptable and prohibited in Wales. This clear message removes any legal loop holes regarding parental physical chastisement of children in Wales, which will no longer be defensible under the legislation.

## **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)*

As stated earlier, it may be a challenge for health care practitioners to manage a change of attitude with some parents who may still hold the belief that physical punishment/chastisement is an acceptable form of behaviour management for their children.

Cultural norms in some communities and families is therefore likely to be a barrier with intergenerational approaches being challenged by the Bill.

There is a lack of clarity on the following:

- What constitutes physical chastisement and what would happen when a parent is suspected/observed to be physically punishing a child?
- How is physical chastisement defined?
- Children are currently protected by the law in terms of abuse, neglect and harm. How will the Bill enhance current legislation?

- Is rough handling physical chastisement and therefore unlawful?
- Would enforcement be proportionate to the physical chastisement used?
- Would a member of the public call the police if they witnessed a parent smacking or roughly handling a child?
- What form of action would be taken against the parent and how would this interface with current safeguarding children processes? Would a child protection medical and response be required?

It is suggested that WG consider Sweden's 'Children & Parents Code', this prohibits parents from using violence or emotionally abusive treatment when bringing up a child, but does not prevent parents from restraining their children to prevent harm to themselves or others. The Code does not in itself carry penalties, but actions that meet the legal criteria of assault are embedded within a penal code.

## **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)*

### 2.2.1 Reinforcement

No. The Bill does not adequately reflect the impact and consequence of the legislation on parents, public services or communities.

There needs to be greater clarity with regard to enforcements and processes that will aid /support the same

### 2.2.2 Action

The focus however should be about reinforcing positive parenting which incorporates alternatives to physical chastisement to managing a child's negative/ challenging behaviour and understanding normal child development and the best strategies to use. If the approach taken is to prioritise the education of parents and carers about the short and long term benefits of using alternatives to physical chastisement rather than consequences of breaching the Bill, it is hoped that there is a clearer appreciation and acceptance of the Bill

### 2.2.3 Safeguarding

The law currently protects children from abuse and harm. Where a child has received physical injury, been subject to neglect and other kinds of abuse, the safeguarding and criminal processes are already clear. There may be difficulty under the Bill of substantiating physical harm such as smacking, which may not leave any 'evidence', however it is surmised that the

intention of the Bill is not to criminalise parents in practice but to educate them to more effective methods of disciplining children.

The Police, the Crown Prosecution Service and Social Services already receive and investigate reports of children being physically punished and use their standard procedures to determine on a case by case basis how best to proceed. The detail of how cases of physical chastisement will be managed within current child protection requires further clarity, exploration and planning. It would be expected that that direction around practical application of the Bill is led by an organisation such as the National Independent Safeguarding Board.

### **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)*

Giving children the same rights as adults in terms of protection from physical violence can only have a positive effect on their well-being in the short and long term.

It is anticipated that there will be financial and resource implications for public services of implementing and supporting the premise of the bill; depending on clarity around enforcement. For the early year's workforce it may impact upon relationships with families /parents and carers at least initially if they need to report/refer a family. However as cultural norms and expectations change and improve this is anticipated to be less of an issue.

### **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)*

As indicated above, the effect of the new Bill will result in increased public service activity from statutory services such as Police, Health, Children's Services and the judicial system. From a Health and Social Care perspective more extensive intervention may be required to support positive parenting programmes with families experiencing difficulties in managing children and young people. Greater resources may be required to reflect the increase in state intervention, action and enforcement in response to the operation of the Bill; in prevention activities of those working with families and of restoration work with families affected by breaking the law.

## **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)*

In summary, the principles of the Bill are fundamentally supported and will be a very positive enabler for those front line practitioners who are challenged with delivering messages and supporting positive parenting practices that are not currently enforceable.

The Bill aligns with existing frameworks and parenting programmes and marries with the evidence of better outcomes for children that experience positive ACE free childhoods

The implementation of the Bill will need a carefully managed and executed communications programme of work supported by a training programme for key workforce groups.

As with all Public Health focused messages and interventions it is critical that single consistent messages are articulated to ensure there is clear understanding of the rationale for the change, the positive impact and consequences and robust effective delivery