

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 10 June 2019

Meeting time: 14.30

For further information contact:

Gareth Williams

Committee Clerk

0300 200 6362

SeneddCLA@assembly.wales

- 1 Introduction, apologies, substitutions and declarations of interest**
(14:30)
- 2 Instruments that raise issues to be reported to the Assembly
under Standing Order 21.2 or 21.3 – previously considered**
(14:30 – 14:40)
 - 2.1 SL(5)412 – The National Health Service (Welsh Language in Primary Care
Services) (Miscellaneous Amendments) (Wales) Regulations 2019**

(Pages 1 – 4)

CLA(5)–18–19 – Paper 1 – Report
CLA(5)–18–19 – Paper 2 – Government response
- 3 Paper(s) to note**
(14:40 – 14:45)
 - 3.1 Letter from the Electoral Commission: Senedd and Elections (Wales) Bill**

(Pages 5 – 6)

CLA(5)–18–19 – Paper 3 – Letter from the Electoral Commission, 24 May
2019
 - 3.2 Letter from the Counsel General: Section 109 Order**

(Pages 7 – 8)

CLA(5)–18–19 – Paper 4 – Letter from the Counsel General, dated 9 April
2019



**3.3 Letter from the Deputy Minister for Health and Social Services: Children
(Abolition of Defence of Reasonable Punishment) (Wales) Bill**

(Pages 9 – 41)

CLA(5)–18–19 – Paper 5 – Letter from the Deputy Minister for Health and
Social Services, 5 June 2019

**4 Motion under Standing Order 17.42 to resolve to exclude the
public from the meeting for the following business:**

(14:45)

**5 Legislative Consent Memorandum on the Census (Return
Particulars and Removal of Penalties) Bill**

(14:45 – 15:00)

(Pages 42 – 43)

CLA(5)–18–19 – Legal brief

6 Senedd and Elections (Wales) Bill: Draft report

(15:00 – 16:00)

(Pages 44 – 196)

CLA(5)–18–19 – Research brief

CLA(5)–18–19 – Legal brief

CLA(5)–18–19 – Paper 6 – Draft report

Date of the next meeting – 17 June 2019

SL(5)412 – The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019

Background and Purpose

These Regulations amend the National Health Service (General Ophthalmic Services) Regulations 1986, the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004, the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006, the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006 and the National Health Service (Pharmaceutical Services) (Wales) Regulations 2013. Only the last of these was made bilingually, which is why the insertions made by the present Regulations are otherwise in English only.

The amendments place six duties, relating to the Welsh language, upon primary care providers in Wales through the terms of their agreements with Local Health Boards. They will require contractors to do the following:

1. Notify the Local Health Board of the service(s) it is willing to provide through the medium of Welsh;
2. Make a Welsh language version of any document or form provided by the Local Health Board available to patients and/or members of the public;
3. Display text on any new sign or notice relating to the service provided, in English and Welsh;
4. Encourage the wearing of a badge, provided by the Local Health Board, by Welsh speakers, to convey that they are able to speak Welsh;
5. Encourage those delivering services to utilise information and/or attend training courses and events provided by the Local Health Board, so that they can develop an awareness of the Welsh language (including awareness of its history and its role in Welsh culture) and an understanding of how the Welsh language can be used when delivering services; and
6. Encourage those delivering services to establish and record the Welsh or English language preference expressed by or on behalf of a patient. "

The Welsh Language Standards (No.7) Regulations 2018 ("the Standards Regulations")

http://www.legislation.gov.uk/wsi/2018/441/pdfs/wsi_20180441_mi.pdf

specify 121 standards that apply to Community Health Councils, Local Health Boards and NHS Trusts in Wales. Standards 65-68 relate to primary care and require those bodies to support the provision of services in Welsh by primary care providers by:

- maintaining a website identifying those who provide primary care services in Welsh (standard 65);



- providing a translation service for primary care providers (standard 66);
- providing badges to enable Welsh speaking staff to be identified (standard 67);
- providing training courses relating to awareness and understanding of the Welsh language (standard 68).

The present Regulations place connected duties on providers of primary care.

The Standards Regulations were made under the Welsh Language Measure 2011 and were subject to the affirmative procedure. The present Regulations are made under the National Health Service (Wales) Act 2006 and are therefore subject to the negative procedure. They will not therefore be debated by the National Assembly as a matter of course.

The Culture, Welsh Language and Communications Committee has received representations regarding the content of these Regulations and will therefore consider the adequacy of the provisions.

Procedure

Negative.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2(vi) in respect of this instrument – that its drafting appears to be defective.

The drafting of the National Health Service (Wales) Act 2006 is inconsistent. Certain powers cited in the preamble to the present Regulations refer specifically to the Welsh Ministers. An example is section 80 in relation to pharmaceutical services. Other powers cited, such as section 47 (in relation to general medical services contracts), refer to regulations without specifying who is to make them. It is necessary to refer to section 206 to discover that ‘regulations’ means regulations made by the Welsh Ministers. That section should therefore have been cited amongst the enabling powers, or at the very least in a footnote.

Merits Scrutiny

The following points are identified for reporting under Standing Order 21.3(ii) in respect of this instrument – that the Regulations are of political or legal importance or give rise to issues of public policy likely to be of interest to the Assembly.

1. These Regulations impose six contractual duties on contractors who provide primary care services to the National Health Service. These can be contrasted with the 121 Welsh Language standards applicable to other health service providers.
2. The Regulations into which these additional duties are inserted make it clear, in different ways, that they form part of the contractual duties of contractors from the dates that the relevant provisions come into force – the 30th May 2019 in relation to these new duties. However, there is nothing in the Explanatory Note to the present Regulations, or the



accompanying Explanatory Memorandum to explain that the amendments apply to all contracts from that date and are not limited to new contracts entered into after that date.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

A government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 20 May 2019 and reports to the Assembly in line with the reporting points above.

In addition, the Committee agreed to write to the Minister for Health and Social Services to support the concerns raised by the Culture, Welsh Language and Communications Committee in its letter to the Minister of 10 May 2019.



Government Response: *The National Health Service (Welsh Language in Primary Care Services) (Miscellaneous Amendments) (Wales) Regulations 2019*

Technical Scrutiny point:

We note and accept the technical point regarding the absence of a reference in a footnote to the interpretation of “regulations” in section 206 of the National Health Service (Wales) Act 2006, in order to confirm that the enabling powers relied upon rest with the Welsh Ministers. We propose to rectify this by means of a correction slip.

Merit Scrutiny points:

The duties imposed by the regulations are the first duties relating to the Welsh language to apply to independent primary care providers. They are distinct from the Welsh Language Standards applicable to Local Health Boards and NHS Trusts, which were previously captured by the Welsh Language Scheme regime.

The Welsh Government have consulted and corresponded with the applicable representative bodies of the independent primary care providers to ensure that they are aware of the nature and extent of the duties incorporated into the terms of contract/agreement/service by the regulations, and that those duties will apply from the date of the regulations coming into force. Engagement and correspondence on the duties has also been undertaken with Local Health Boards. The Welsh Government is therefore satisfied that the relevant bodies are aware that the duties are not limited to new arrangements, entered into after the date on which the regulations will come into force.

Y
Comisiwn
Etholiadol

The
Electoral
Commission

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

24 May 2019

Dear Mick,

Thank-you once again for the opportunity to provide evidence to the Constitutional and Legislative Affairs Committee as part of its scrutiny of the Senedd and Elections (Wales) Bill on 29 April 2019.

At this session, a question was put to us on the registration process in Scotland, how this differed from Wales and any advantages or disadvantages to this process.

The Electoral Registration Officer (ERO) is an official appointed by the local authority to prepare and maintain the register of electors. Throughout Scotland (with the exception of the City of Dundee and Fife) councils have appointed the local Assessor as ERO.

In Scotland, assessors are responsible for the valuation of all heritable properties for local taxation purposes within their respective valuation areas. Each of the 32 local councils within Scotland is a valuation authority and responsible for appointing an Assessor. There are however only fourteen Assessors in Scotland, four are appointed directly by a single Council and the remaining ten are appointed by Valuation Joint Boards comprising elected members appointed by two or more Councils.

The reason that many local Assessors also act as ERO in Scotland dates back to the 1856 when legislation was passed that made the Valuation Roll the basis for the Electoral Register and required them to be compiled by the same person. This legal requirement was dropped in 1975, but in practice most local authorities in Scotland have continued to appoint the Assessor as ERO.

While the Commission does not have a view on which arrangement is most appropriate, the Scottish Assessors Association would argue that the main advantages of this system are that the electoral register requires an up-to-date and accurate property database as its basis and Assessors are the first to be notified of new properties. It also provides a measure of resilience at busy election periods as the ERO focuses solely on electoral

registration and the compilation of absent voter lists while the Returning Officer focuses on the administration of the poll.

However, holding the separate functions in separate offices does require a significant level of trust and communication between officers of the local authority and the ERO to ensure that both functions integrate seamlessly at election periods when systems can be under pressure.

There is no evidence that this different arrangement has had a significant impact on registration rates in Scotland as compared to Wales.

Please do feel free to contact us if you require any further information.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'RTH' or similar initials, written in a cursive style.

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Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Agenda Item 3.2



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref CG/05095/19

Mick Antoniw AM
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Ty Hywel
Cardiff Bay
Cardiff
CF99 1NA
SeneddCLA@assembly.wales

9 April 2019

Dear Mick,

Thank you for your letter of 26 March 2019 in respect of a possible section 109 Order, to which the First Minister referred in his letter to you of 11 March 2019.

The Welsh Government and the Office of the Secretary of State for Wales are working closely together to review how concurrent functions created by Brexit-related legislation exercisable by both Welsh Ministers and UK Ministers can be repealed by the Assembly without the need for UK Ministers' consent. Both Governments agree that the current restrictions requiring such consent should be looked at to ensure post-Brexit arrangements work as smoothly as possible, with a view to including changes in a forthcoming Order in Council made under section 109.

It is also intended that the Order will correct a small number of EU-exit related deficiencies in Schedule 7A, by removing certain references to the EU and EU law; and that it will make some minor corrections to Schedules 7A and 7B arising from errors in the Wales Act 2017.

As you know, s.109(4) of the Government of Wales Act 2006 requires any Order made under that section to be laid before the Assembly for approval, as well as in both Houses of Parliament. The Office of the Secretary of State for Wales does not yet have a firm timetable for the laying of the Order, but I will keep the Committee updated on developments.

Bae Caerdydd • Cardiff Bay
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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'JM', with a large loop at the end.

Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

Julie Morgan AC/AM
Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services

Our ref : MAL JM 470 19

Lynne Neagle AM
Chair
Children, Young People and Education
Committee

Llyr Gruffydd AM
Chair
Finance Committee

Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee

5 June 2019

Dear Lynne, Llyr and Mick

In November 2018 a survey was undertaken to establish a research baseline for public awareness and opinion of the proposed legislation, the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill. It was carried out four months before the Bill was introduced to the National Assembly for Wales. This research may be of interest to you as part of your Stage 1 scrutiny of the Bill.

The report will be published on the Welsh Government's website on Wednesday 5 June in accordance with Government Social Research guidelines. A copy of the report is attached at Doc 1.



Julie Morgan AC/AM
Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Dadansoddi ar gyfer Polisi



Analysis for Policy



Llywodraeth Cymru
Welsh Government

SOCIAL RESEARCH NUMBER:

25/2019

PUBLICATION DATE:

05/06/2019

Public attitudes to physical punishment of children: baseline survey, 2018

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.

This document is also available in Welsh.

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Pack Page 10

Public attitudes to physical punishment of children: baseline survey, 2018

Author:

Chris Timmins, Beaufort Research

Full Research Report: Public Awareness and Opinion of Proposed Legislation on Physical Punishment of Children – November 2018, Cardiff: Welsh Government, GSR report number 25/2019.>

Available at: <https://gov.wales/public-attitudes-physical-punishment-children-baseline-survey-2018>

Views expressed in this report are those of the researcher and not necessarily those of the Welsh Government

For further information please contact:

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1. Introduction

1.1 Background and objectives

1.1 The Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill was introduced to the National Assembly for Wales on 25 March 2019.

1.2 The overarching objective of the legislation is to help protect children's rights by prohibiting the use of physical punishment against children, through the removal of the defence of reasonable punishment. This would mean that the defence is no longer available within the territory of Wales to parents or those acting in loco parentis (acting with parental responsibility), as a defence to a charge of common assault or battery on a child in their care.

1.3 Should the Bill be passed by the Assembly, the Welsh Government intends to run a campaign, to raise awareness of the change in the law, both before and after it comes into force.

1.4 The objective of this research was to establish a research baseline on public attitudes towards physical punishment of children including the proposed legislation. The fieldwork was carried out in November 2018, four months before the Bill was introduced to the National Assembly for Wales. The Welsh Government intends to repeat these questions at regular intervals to track public awareness and opinion as the public awareness campaign progresses over a number of years (should the Bill be passed and become law).

1.2 About this report

1.5 This research was conducted on the November 2018 Beaufort Wales Omnibus survey which interviews a representative quota sample of 1,002 adults aged 16+ across Wales in their own home. This includes both parents/guardians and non-parents/guardians. This work forms part of a suite of parenting research undertaken by the Welsh Government since 2013. A table of reports can be found at Annex A.

1.6 The questionnaire for this survey comprised a series of questions about attitudes towards smacking, awareness of legislation around physical punishment of children and awareness and opinion of proposed changes to legislation. Demographic questions were also included as standard in the Wales Omnibus survey. The questionnaire was available in English or Welsh at the participant's choice and can be found in Annex B of this document.

1.3 Statistical testing

1.7 Throughout this report comparisons are made between different groups of the population (for example, those of different age groups or gender) to understand if they have varying attitudes, behaviours or knowledge. The report uses statistical testing to compare results between groups of the population. When a difference between two groups is described as 'significant' in this report, this means that the probability of obtaining the finding by chance is less than one in 20 and therefore it can be generalised to the wider population.

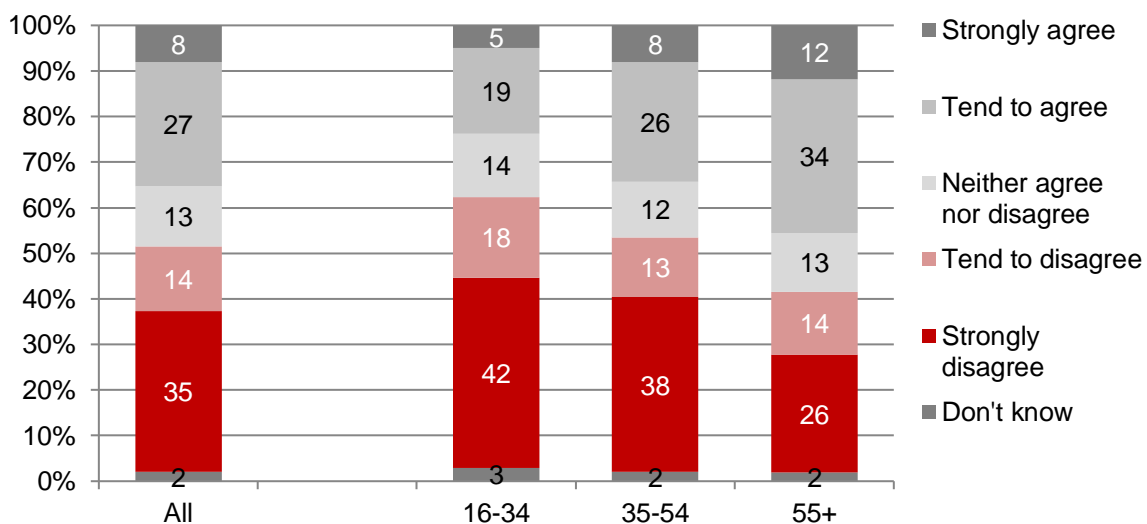
1.8 More information on the survey methodology is included in Annex C.

2. Attitudes towards smacking

2.1 All respondents were asked the degree to which they agreed or disagreed that *it is sometimes necessary to smack a child*. Opinion was split on this, although more disagreed with this statement (49%) than agreed with it (35%).

2.2 As shown in figure 2.1, when we examine this by age of respondent, we find that those in the older age group (55+) were more likely to agree that *it is sometimes necessary to smack a child* – at 45% this was almost twice the number of 16-34s who held this view (24%). These differences were confirmed by statistical testing and therefore the finding can be generalised to the wider population.

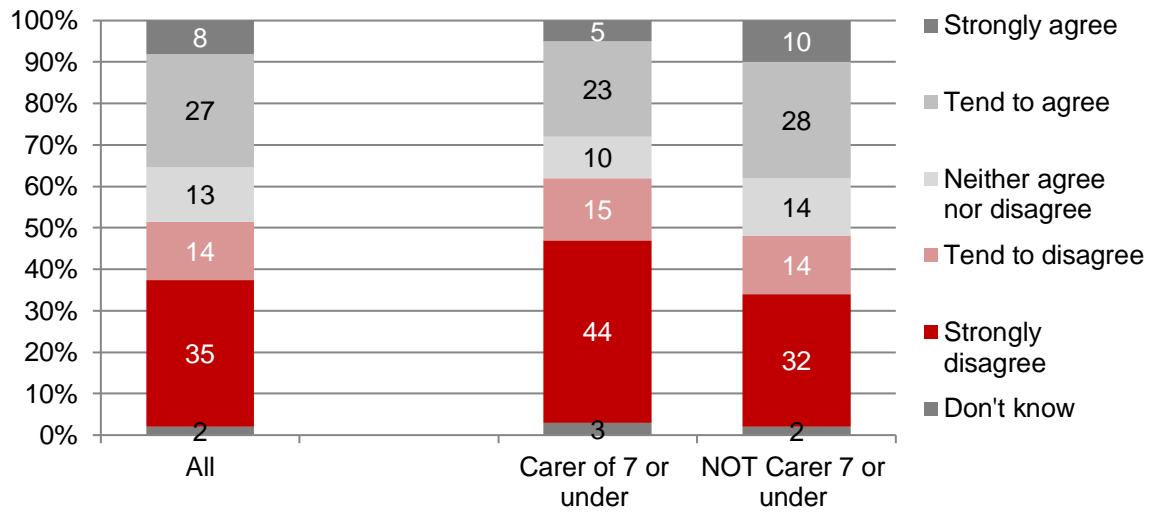
Figure 2.1: Percentage in agreement that ‘it is sometimes necessary to smack a child’ (All and by age group)



Base: All (1,002), 16-34 (246), 35-54 (264), 55+ (491)

2.3 Those who have caring responsibilities for children aged seven or under, namely parents, guardians or other family members who provide regular care, were less likely to agree that *it is sometimes necessary to smack a naughty child* – 28% compared with 38% among those who do not have caring responsibilities for those aged seven and under. This difference is confirmed by statistical testing and therefore the finding can be generalised to the wider population.

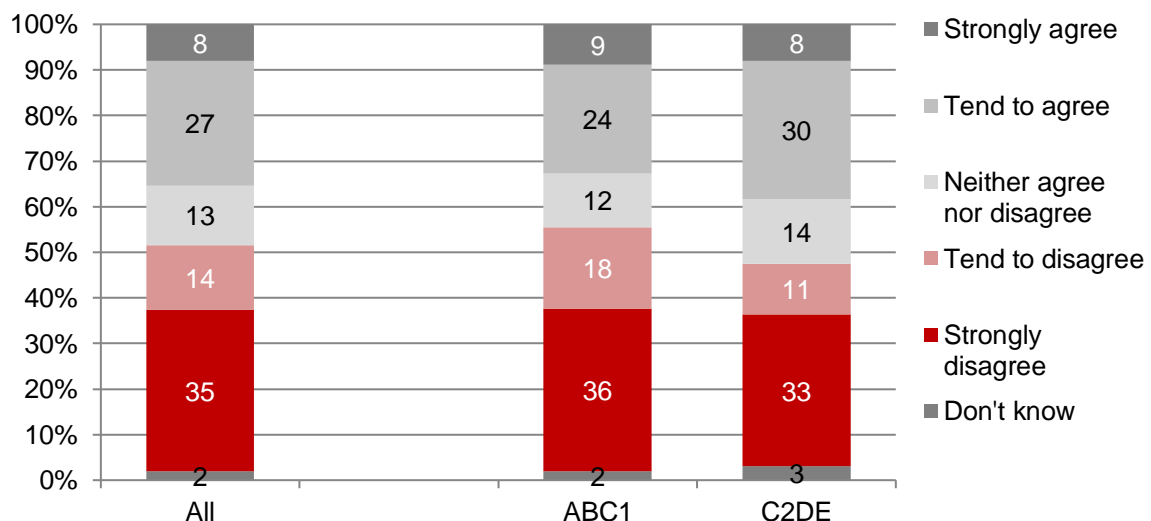
Figure 2.2: Percentage in agreement that ‘it is sometimes necessary to smack a child’ (All and whether regular carer of child aged seven or under)



Base: All (1,002), Regular carer of 7 or under (186), Not a regular carer of 7 or under (814)

2.4 Figure 2.3 shows findings for the same measure by social grade¹. Those in social grades ABC1² were more likely to disagree that *it is sometimes necessary to smack a child* – 54% compared with 44% among those in social grades C2DE. This difference is confirmed by statistical testing and therefore the finding can be generalised to the wider population.

Figure 2.3: Percentage in agreement that ‘it is sometimes necessary to smack a child’ (All and by social grade)



Base: All (1,002), ABC1 (490), C2DE (505)

¹ Social grade is a classification system based on the occupation of the chief income earner in the household.

² Definitions of social grades A,B,C1,C2,D,E can be found in Annex E

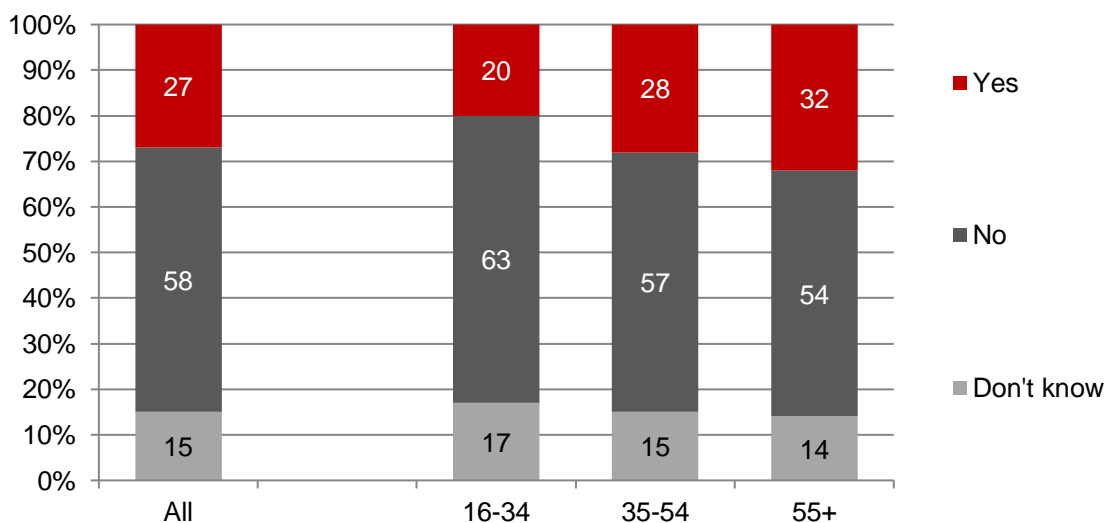
3. Knowledge of current legislation

3.1 The current legal situation regarding smacking or other physical punishment of children in Wales, is that parents and adults acting in loco parentis (acting with parental responsibility) are able to rely on the defence of reasonable punishment against a charge of common assault. Parents who physically punish their children cannot use the reasonable punishment defence for charges of cruelty, wounding or assaults occasioning actual or grievous bodily harm. The Crown Prosecution Service guidance clarifies that “although any injury that is more than 'transient or trifling' can be classified as actual bodily harm, the appropriate charge will be one of Common Assault where no injury or injuries which are not serious occur”.

3.2 Around 6 in 10 (58%) of people surveyed thought that the law did not allow parents to smack their children. Just over a quarter (27%) thought the law did allow parents to smack and the remaining 15% reported being unsure.

3.3 Older respondents (aged 55+) were more likely to believe that smacking was allowed (32%), although were still in the minority. These differences were confirmed by statistical testing and therefore the finding can be generalised to the wider population.

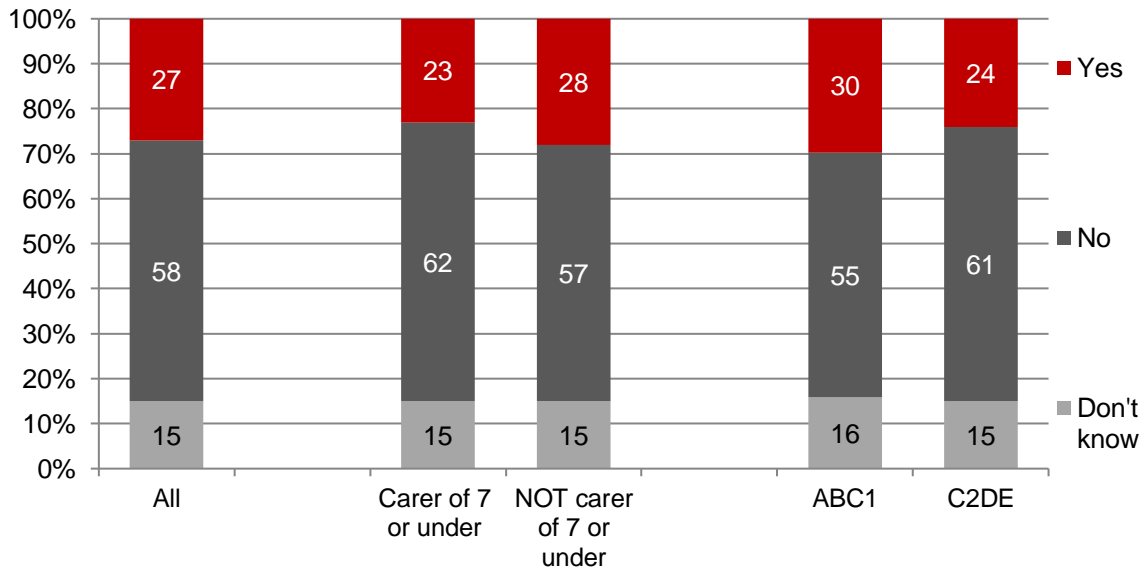
Figure 3.1: Percentage who believe that the law currently allows parents to smack their children (All and by age group)



Base: All (1,002), 16-34 (246), 35-54 (264), 55+ (491)

3.4 Those who were not regular carers of children aged seven and under and those from social grades ABC1 were also more likely than their counterparts to believe that smacking was allowed but statistical testing did not confirm these differences and therefore the finding cannot be applied to the wider population.

Figure 3.2: Percentage who believe that the law currently allows parents to smack their children (All and by social grade and whether regular carer of child aged seven or under)

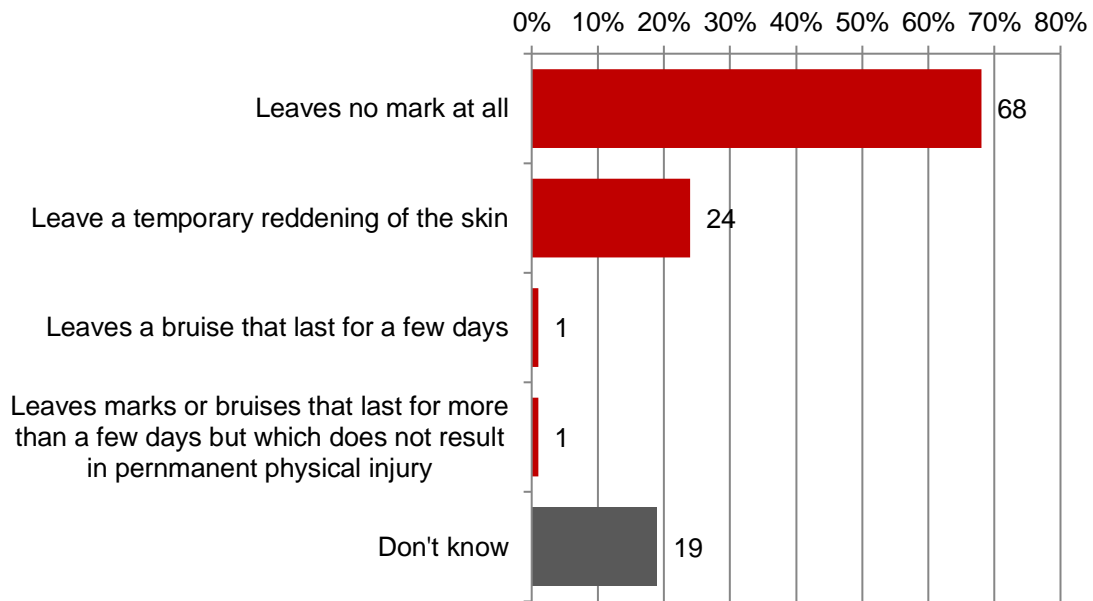


Base: All (1,002), Regular carer of 7 or under (186), Not a regular carer of 7 or under (814), ABC1 (490), C2DE (505)

3.5 Individuals were then informed that the law currently does allow parents to smack or physically discipline their children and questioned respondents on the level of punishment they felt the law allowed. The options they were given can be found in figure 3.3 together with the proportion of people who thought each level was allowed (respondents could choose more than one option).

3.6 Around 7 in 10 people (68%) thought punishment that left no mark at all on the child would be allowed in law. Far fewer (24%) thought that leaving a temporary reddening of the skin would be allowed. Only a very small proportion thought that higher levels of physical punishment such as something that leaves a bruise for a few days (1%) or leaves marks or bruises that last for more than a few days but does not result in permanent physical injury (1%) would be allowed in law. Almost 1 in 5 (19%) reported that they did not know what level of punishment would be allowed.

Figure 3.3: Percentage who thought that each level of punishment was currently allowed in law

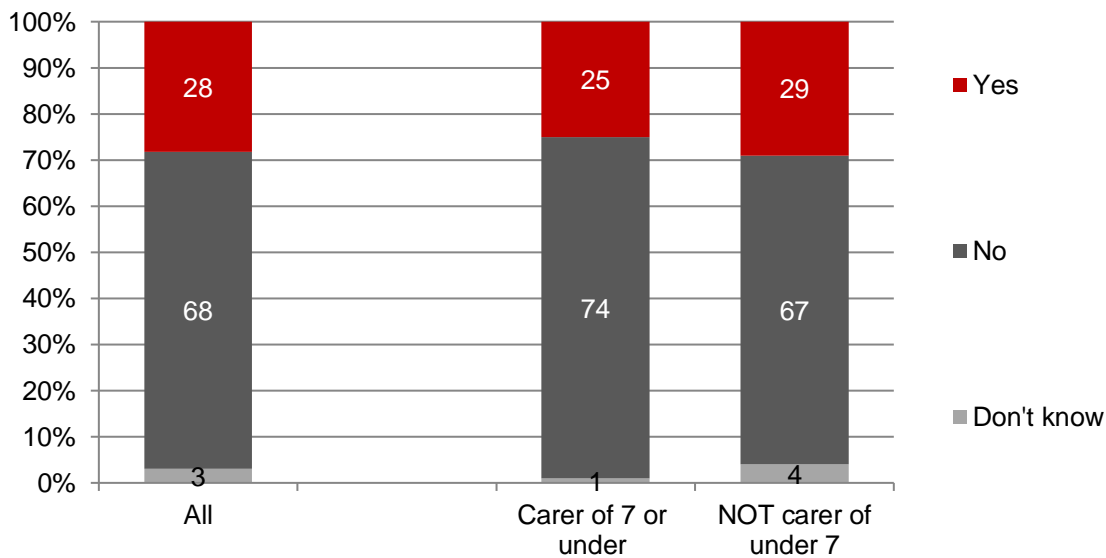


Base: All (1,002)

4. Awareness of proposed changes to legislation

4.1 Just under 3 in 10 (28%) people reported that they were aware of proposed changes to the law around physical punishment of children at an unprompted level³. Awareness was no greater among carers of children seven and under than those who did not have these responsibilities. In fact it was slightly lower (25% vs. 29%) although this difference was not statistically significant and cannot be generalised to the wider population.

Figure 4.1: Percentage aware of proposed changes in legislation around physical punishment of children [Unprompted] (All and by whether regular carer of child aged seven or under)

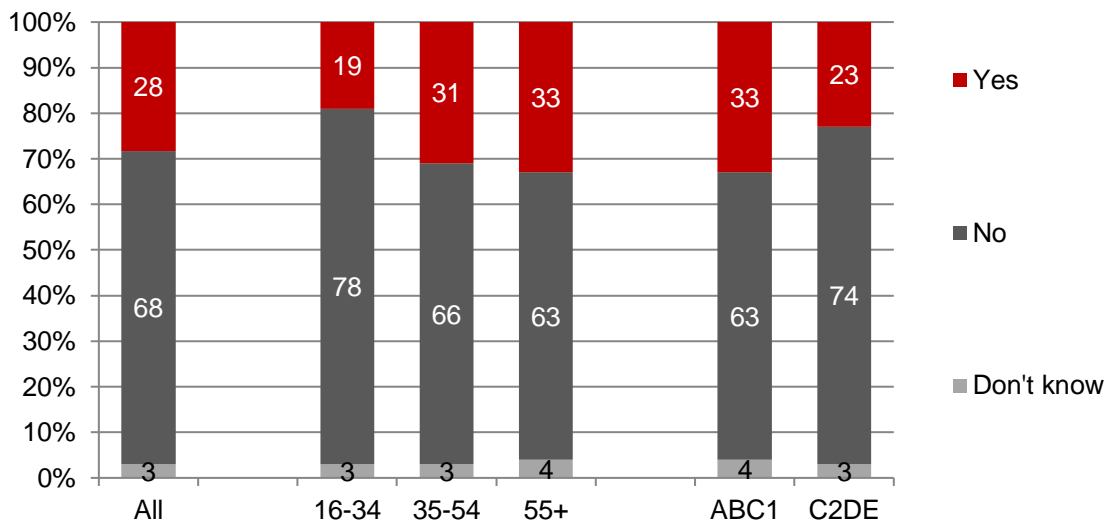


Base: All (1,002), Regular carer of 7 or under (186), Not a regular carer of 7 or under (814)

4.2 As shown in figure 4.2, differences in awareness did occur by age and social grade. Those aged 16-34 (19%) were less likely to be aware of a potential change than older respondents. Similarly, those in social grades C2DE (23%) were less likely to be aware of a potential change than those in social grades ABC1. These differences were confirmed by statistical testing and therefore the finding can be generalised to the wider population.

³ Respondents were not given any details of potential changes at this point and were simply asked 'Are you aware of any proposed changes to the law around physical punishment of children?'

Figure 4.2: Percentage aware of proposed changes in legislation around physical punishment of children [Unprompted] (All and by age and social grade)



Base: All (1,002), 16-34 (246), 35-54 (264), 55+ (491), ABC1 (490), C2DE (505)

4.3 Those who reported being aware of potential changes in legislation (297 respondents) were asked to describe in their own words how they thought the law may change. Their responses were then grouped into themes and are shown in table 4.1. By far the most frequent response was that smacking would be [completely] banned \ it will be illegal. Around three-quarters (73%) of those aware of a change spontaneously mentioned this. Around 1 in 10 (10%) who had previously said they were aware of a change could not name what that change would be.

Table 4.1 : Can you tell me how you think the law may change? [Unprompted]

Response	Percentage of respondents (Number of respondents)
[Complete] ban on smacking \ physical punishment \ it will be illegal	73 (n.206)
Don't know	10 (n.27)
Other responses reported by less than 5 per cent of respondents	
Change is being discussed (unspecific)	
Good idea \ don't agree with smacking	
Penalties for those who smack children	
Saw \ heard something about it (unspecific)	
Thought it was already illegal to smack	

Base: Those aware of proposed changes to the law around physical punishment of children – unprompted (297)
 (a) Table may add up to more than 100 per cent as respondents were able to give more than one answer
 (b) Other responses are presented alphabetically

4.4 Those who reported being aware of potential changes in legislation were also asked to state how they had become aware of the change (table 4.2). Seeing something on a TV news / programme was by far the most frequent response with half (50%) of those aware of change reporting this as their source. This was followed by radio news / programme (14%) and word of mouth via family or friends (11%).

Table 4.2: How became aware of that law may change around physical punishment of children – percentage giving each answer [Unprompted]

Response	Percentage of respondents (Number of respondents)
On TV – news \ programme	50 (n.141)
On radio – news \ programme	14 (n.38)
Someone told me (family \ friends)	11 (n.30)
On TV – advertising	7 (n.19)
National UK newspaper - news \ article	5 (n.14)
Someone told me (professional)	5 (n.13)
Don't know	5 (n.15)
Other responses reported by less than 5 per cent of respondents	
Facebook	
Local newspaper - advertising	
Local newspaper - news \ article	
Magazine	
National Wales newspaper - advertising	
National Wales newspaper - news \ article	
National UK newspaper - advertising	
Online website - news item	
Online website - other	
Radio - advertising	
Social media (excluding facebook)	

Base: Those aware of proposed changes to the law around physical punishment of children – unprompted (297)

(a) Table may add up to more than 100 per cent as respondents were able to give more than one answer

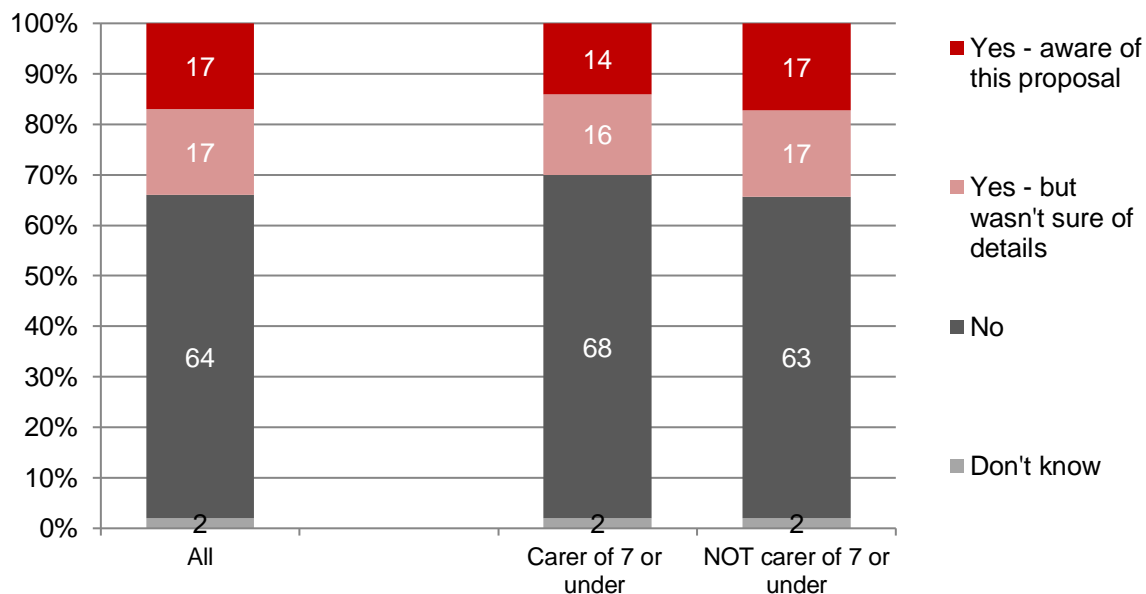
(b) Other responses are presented alphabetically

4.5 After being asked their awareness at an unprompted level, respondents were then presented with a description of the proposed legislative change (which can be found in Annex D) and were asked if they had seen or heard anything about this proposal. At this prompted level, slightly more respondents reported that they were aware of the legislation than had done so on a spontaneous basis (see figure 4.1). However, they were still the minority - a total of 34% knew something about the

proposal and this group was split evenly into those who reported that they were aware of the proposal (17%) and those who were aware but not sure about the details (17%) – see figure 4.3.

4.6 As with spontaneous awareness, at this prompted level those with caring responsibilities for children aged seven and under were slightly less likely to be aware of the legislation than those without these responsibilities although the difference was not statistically significant and therefore cannot be applied to the wider population.

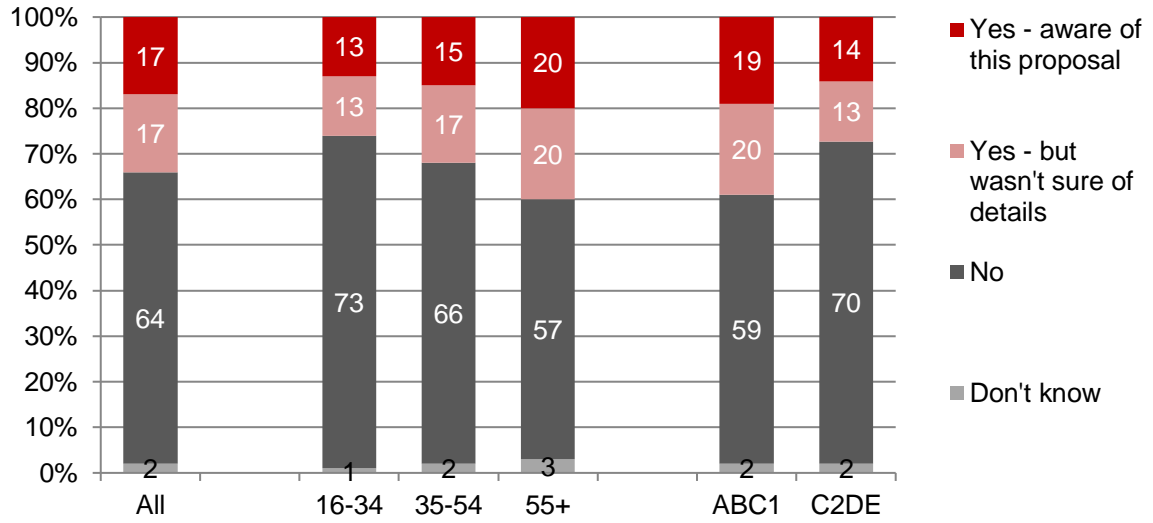
Figure 4.3: Percentage aware of proposed changes in legislation around physical punishment of children [Prompted] (All and by whether regular carer of child aged seven or under)



Base: All (1,002), Regular carer of 7 or under (186), Not a regular carer of 7 or under (814)

4.7 Differences do occur in terms of prompted awareness by age and social grade (figure 4.4). Among those aged 55+ prompted awareness of the proposed legislation stood at 40% compared with 26% among 16-34s and 32% among 35-54s. Similarly, 39% of those in social grades ABC1 were aware of the proposed legislation compared with 27% of those in social grades C2DE. These differences were confirmed by statistical testing and therefore the finding can be generalised to the wider population.

Figure 4.4: Percentage aware of proposed changes in legislation around physical punishment of children [Prompted] (All and by age group and social grade)

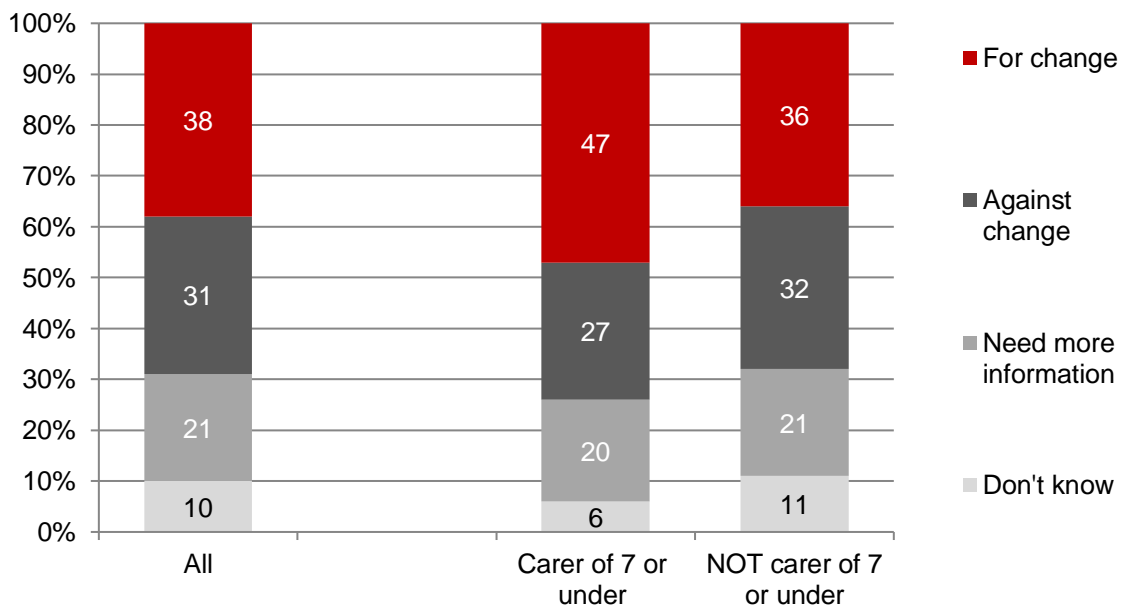


Base: All (1,002), 16-34 (246), 35-54 (264), 55+ (491), ABC1 (490), C2DE (505)

5. Opinion of proposed changes to legislation

5.1 Having been shown the description of the proposed change, respondents were asked whether they were in favour of the removal of the defence of reasonable punishment, against it or needed more information to decide. Overall, there was mixed opinion on this with similar proportions being for the removal (38%), against it (31%) or needing more information / don't know (31%). Those with caring responsibilities for children aged seven and under were more likely to be in favour of the proposed change (47% in favour, 27% against) compared with those who did not have these responsibilities (36% in favour, 32% against). These differences were confirmed by statistical testing and therefore the finding can be generalised to the wider population.

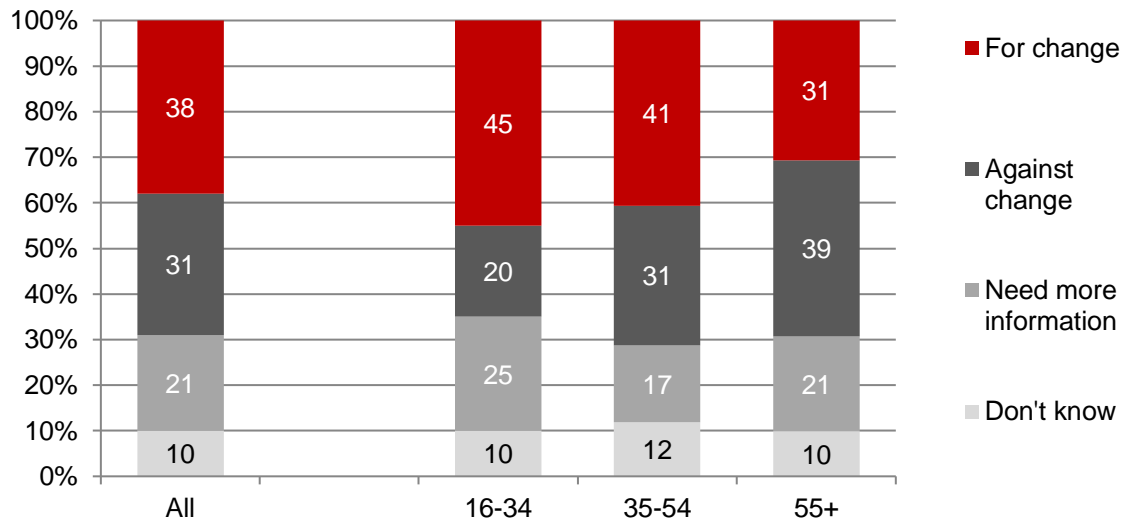
Figure 5.1: Opinion of proposed change in legislation on physical punishment of children (%) (All and by whether regular carer of child aged seven or under)



Base: All (1,002), Regular carer of 7 or under (186), Not a regular carer of 7 or under (814)

5.2 Differences in opinion were also found by age. In both the 16-34 and 35-54 age groups, respondents were more likely to be for rather than against the change, as shown in figure 5.2. However, among those aged 55+ the reverse was true. These differences were confirmed by statistical testing and therefore the finding can be generalised to the wider population.

Figure 5.2: Opinion of proposed change in legislation on physical punishment of children (All and by age group)



Base: All (1,002), 16-34 (246), 35-54 (264), 55+ (491)

5.3 Differences were not found in opinion of the proposed change in legislation by gender or social grade.

5.4 Respondents were asked to explain their reasons for their opinion on the proposed legislative change. Again, this was in their own words and responses have been grouped into common themes. Table 5.1 shows the reasons that were stated for being in favour of the proposed change (366 respondents). The most frequent response was that they did not agree with smacking or physical punishment of children (38% of those who were for the proposed change). Others highlighted that there were other ways of ensuring good behaviour (15%) that it doesn't work / not necessary (9%) and is not a good lesson and encourages violence (8%). Whilst articulated in slightly different ways a number of individuals focussed on the harm done to children:

- It's abuse / can lead to abuse (5%)
- Some parents go too far (5%)
- It's harmful to children (5%)

Table 5.1: Can you tell me why you are in favour of the change to the law on physical punishment of children in Wales? [Unprompted]

Response	Percentage of respondents (Number of respondents)
Don't agree with smacking \ physically punishing children	38 (n.144)
There are other ways of ensuring good behaviour \ discipline	15 (n.57)
It doesn't work \ not necessary	9 (n.33)
It's not a good lesson \ encourages violence	8 (n.30)
It will help protect children	6 (n.21)
It's abuse / can lead to abuse	5 (n.21)
Some parents go too far	5 (n.21)
It's harmful to children	5 (n.20)
Other responses reported by less than 5 per cent of respondents	
A tap is ok \ a little smack \ ok if don't go too far	
It's needed	
I was hit as a child	
Never smacked my kids	

Base: Those in favour of change to the law on physical punishment of children in Wales (366)

(a) Table may add up to more than 100 per cent as respondents were able to give more than one answer

(b) Other responses are presented alphabetically

5.5 Of those against the proposed change in legislation (317 respondents) controlling behaviour and discipline was one the main reasons for their view. Three in ten (30%) of those against change thought the current situation was needed to control behaviour / discipline child / teach respect / show boundaries. Others commented on the broader lack of discipline in society – there’s no discipline / respect these days / kids are badly behaved (8%).

5.6 Other principal reasons for being against the change centred on who should be responsible for disciplining children. A total of 19% of those against change thought parents should be allowed to make this decision and 8% thought government should not get involved. Some of those against the proposed legislation gave a qualified response to their reason for rejecting change, saying that [physical punishment] was ok if it doesn’t go too far / if reasonable punishment (25%). A full list of answers can be found in table 5.2

Table 5.2: Can you tell me why you are against the change to the law on physical punishment of children in Wales? [Unprompted]

Response	Percentage of respondents (Number of respondents)
Needed to control behaviour \ discipline child \ teach respect \ show boundaries	30 (n.91)
Ok if doesn't go too far \ if reasonable punishment	25 (n.77)
Parent should be allowed to punish child \ should have choice \ make decision	19 (n.58)
Government should not get involved	8 (n.26)
There's no discipline these days \ kids are badly behaved \ no respect	8 (n.24)
Doesn't do any harm \ didn't harm me \ my kids	7 (n.20)
Shouldn't be criminalised	5 (n.16)
Other responses reported by less than 5 per cent of respondents	
Difficult to police \ enforce \ resource	
Each circumstance \ child is different	
Law is fine at moment \ new law not needed	
OK when child is in danger	
Over the top \ not reasonable	
Use as last resort	

Base: Those against the change to the law on physical punishment of children in Wales (317)

(a) Table may add up to more than 100 per cent as respondents were able to give more than one answer

(b) Other responses are presented alphabetically

5.7 Those who needed more information before deciding (217 respondents) principally either wanted more detail or information on how it would work (35% of those needing more information) or specifically would like greater clarity around definitions that were part of the legislation:

- What constitutes smacking \ assault, what is allowed vs. not allowed (19%)
- Definition of reasonable punishment (5%)

**Table 5.3: Can you tell me what additional information you need?
[Unprompted]**

Response	Percentage of respondents (Number of respondents)
More detail \ more info \ how it would work	35 (n.74)
What constitutes smacking \ assault, what is allowed vs. not allowed	19 (n.40)
Definition of reasonable punishment	5 (n.11)
Research \ evidence into impact of smacking	5 (n.10)
Don't know	15 (n.31)
Other responses reported by less than 5 per cent of respondents	
Definitions \ examples	
How it will be policed \ enforced \ resourced	
Info on current law	
Need time to think about it \ more time to think about it	
Punishment \ charges for parents	
Safeguarding \ protection for parents	

Base: Those who need more information to decide if they are for or against change to the law on physical punishment of children in Wales (217)

(a) Table may add up to more than 100 per cent as respondents were able to give more than one answer

(b) Other responses are presented alphabetically

6. Conclusions

6.1 Views are mixed on whether 'it is sometimes necessary to smack a naughty child' and balance of opinion appears related to age of respondent. Older respondents were more likely to agree that smacking is sometimes necessary than younger respondents. Those who are involved in managing behaviour of young children (have caring responsibilities for children aged seven or under) were less likely to agree that smacking was sometimes necessary than those without these responsibilities.

6.2 There appears to be a degree of misunderstanding around the current status of legislation around smacking. Around 6 in 10 (58%) of those surveyed thought that the law currently did not allow parents to smack their children. Those with caring responsibilities for children aged seven or under were no more likely to be aware of the current legislative status than those without these responsibilities.

6.3 Awareness of proposed changes to legislation which would see the removal of the defence of reasonable punishment was, at the moment, limited. When prompted with what the change may entail, a third reported any awareness of this. Those with caring responsibilities for children aged seven or under were no more likely to be aware of the proposed change than those who did not have these caring responsibilities.

6.4 There is a lack of consensus on opinion of the proposed change with the population relatively evenly split between those who are for it, those who are against it and those who need more information to decide or are unsure. These proportions varied to a certain extent among different groups of the population. Balance of opinion among younger age groups and those with caring responsibilities for children aged seven or under was in support of a change in legislation whereas the reverse was true among the older generation.

6.5 The three most frequent reasons provided by those who were against the legislation were that the current status is needed to control / discipline children, that it's ok as long as things don't go too far and that it should be parents and not

government who decide on these matters. For those in favour of the legislative change, reasons included not agreeing with physically punishing children, that there were other ways of ensuring good behaviour and that physical punishment doesn't work. Those who were undecided on the matter wanted more information on how it would work and greater clarity around definitions that were part of the legislation.

Annex A - Welsh Government Social Research on parenting,

The Table below sets out the Government Social Research publications on parenting commissioned by the Welsh Government over the past six years.

Table A.1: Relevant Previous Welsh Government Research

Title	Method and sample	Purpose	Link
Attitudes to parenting practices and child discipline Published: 2014	<ul style="list-style-type: none"> • 14 focus groups (70 participants) • Parents of children under 18 • In 2013 	To explore parents' views on parenting practice including discipline. The findings were used to inform parenting support.	https://gov.wales/attitudes-parenting-practices-and-child-discipline-0
Managing children's behaviour, attitudes and practices: Baseline Survey 2013 Published: 2014	<ul style="list-style-type: none"> • Quantitative Omnibus Survey • 1,022 adults (56% ever parents, 27% parents of under 18s) • In 2013 	To collect data on attitudes of the public (including parents and non-parents) towards parenting practices including discipline. The findings were used to inform parenting support.	https://gov.wales/survey-attitudes-towards-managing-childrens-behaviour-0
Parental attitudes towards managing young children's behaviour 2015 Published: 2016	<ul style="list-style-type: none"> • Quantitative – telephone survey • 387 parents/guardians of children under 7 years old • Using National Survey for Wales re-contact list • In 2015 	To gauge the attitudes of parents with young children on parenting and managing children's behaviour. Fieldwork undertaken prior to Launch of parenting support campaign <i>Parenting. Give it time</i>	https://gov.wales/attitudes-parents-towards-managing-young-childrens-behaviour-2015
Parental attitudes towards managing young children's behaviour 2017 Published: 2018	<ul style="list-style-type: none"> • Quantitative – telephone survey • 269 parents/guardians of children under 7 years old • Using National Survey for Wales re-contact survey • In 2017 	To gauge the attitudes of parents with young children on parenting and managing children's behaviour. This survey was broadly a repeat of previous research undertaken in 2015 and helped inform the preparatory work for the proposal to prohibit physical punishment.	https://gov.wales/parental-attitudes-towards-managing-young-childrens-behaviour

Annex B – Survey questionnaire

This section is about physical punishment which includes smacking

1. To what extent do you agree or disagree that it is sometimes necessary to smack a child?

- Strongly agree
- Tend to agree
- Neither agree nor disagree
- Tend to disagree
- Strongly disagree
- Don't know (SPONTANEOUS ONLY) -

2. Do you think the law allows parents to smack their children?

- Yes
- No
- Don't know

3. The law does currently allow parents to physically punish their children (which includes smacking). What level of punishment do you think the law allows? Choose as many as you think are relevant.

Physical punishment that:

- Leaves no mark at all on the child
- Leaves a temporary reddening of the skin
- Leaves a bruise that lasts for a few days
- Leaves marks and bruises that last for more than a few days but which does not result in permanent physical injury
- Don't know (DO NOT READ OUT)
- Refused (DO NOT READ OUT)

4. Are you aware of any proposed changes to the law around physical punishment of children?

- Yes
- No
- Don't know

5. Can you tell me how you think the law may change?

6. How did you become aware of the proposed changes to the law around physical punishment of children?

DO NOT PROMPT

- On TV – news / programme
- On TV □ advertising
- On the radio – news / programme
- On the radio – advertising
- In a local newspaper – news / article
- In a local newspaper – advertising
- In a national Wales newspaper – news / article
- In a national Wales newspaper – advertising
- In a national UK newspaper – news / article
- In a national UK newspaper – advertising
- Online website – news item
- Online website – other
- Social media (excluding facebook)
- Facebook
- In a magazine
- Someone told me (professional)
- Someone told me (family/ friend)

In Wales, the government is considering changing the law around physical punishment including smacking. Parents are currently able to use the defence of reasonable punishment against a charge of common assault, but not against more serious charges of, for example, actual bodily harm. If the legislation is passed the defence of reasonable punishment would no longer be available in Wales to parents, carers and guardians, and those acting in loco parentis facing a charge of assault or battery against a child in their care. Where the police find sufficient evidence for a realistic prospect of conviction they will have to consider whether it is in the public interest to charge.

7. Before today, have you seen or heard anything about this proposal at all?

- Yes I am aware of the proposal
- Yes – but I wasn't sure of the details
- No
- Don't know

8. Which of these statements about proposed changes to the law around physical punishment of children in Wales best reflects your view?

- I am in favour of changing the law to remove the defence of reasonable punishment
- I am against changing the law to remove the defence of reasonable punishment
- I need more information to decide
- Don't know

9. a) Can you tell me why you are in favour of the change to the law on physical punishment of children in Wales?

OPEN ENDED

b) Can you tell me why you are against the change to the law on physical punishment of children in Wales?

OPEN ENDED

c) Can you tell me what additional information you need?

OPEN ENDED

Annex C – Research method

A1.1 This research was conducted via the Beaufort Wales Omnibus Survey. Omnibus surveys are a well-established method of conducting market and social research. As their name implies, they enable a group of users to share the same survey vehicle, achieving the benefit of lower costs.

A1.2 Interviewing is spread across 69 separate locations throughout Wales, with points randomly selected each wave. The primary sampling unit is Lower Super Output Areas (LSOA). LSOAs are geographical areas developed by ONS following the 2001 Census and on average have populations of around 1,600. Sampling points are selected with probability proportionate to resident adult population after stratification by region (Local Authority) and social grade (proportion of ABs).

A1.3 Within each sampling location, there are interlocking quota controls on age within gender as well as social grade and working status. Quotas are set to reflect the known demographic profile of Welsh residents according to the latest Census information.

A1.4 All interviews are conducted face-to-face in the homes of respondents using CAPI (Computer Aided Personal Interviewing) technology. No more than one person per household is interviewed. A fresh sample of interviewing locations and individuals are selected for each survey.

A1.5 At the analysis stage, the data is weighted by age group within gender within Local Authority grouping to give each cell its correct incidence within the Wales total derived from the results of the 2011 Census. Figures in this report are presented to the nearest whole percentage.

Proportional quota sampling

A1.6 When survey data are tested for statistical significance, an assumption is made that the achieved sample represents a random sample of the relevant population. However, as the Wales Omnibus Survey uses proportional quota sampling (not random sampling), genuine statistical significance cannot, strictly speaking, be

established. Therefore, when a difference between two sub-groups is described as being 'significant' in this report, this refers to a pseudo-statistically significant difference at the 95 per cent confidence level. This means that, if the survey did use a random sample, the probability of obtaining the finding by chance would be less than one in 20.

Chi-square analysis

A1.7 The chi-square test has been used in the analysis to determine whether an observed relationship between two categorical variables in the sample is likely to reflect a genuine association in the population (i.e. the total adult population resident in Wales aged 16 years and over).

Annex D – Description of proposed change in legislation presented to respondents in November 2018 survey

In Wales, the Government is considering changing the law around physical punishment including smacking. Parents are currently able to use the defence of reasonable punishment against a charge of common assault, but not against more serious charges of, for example, actual bodily harm. If the legislation is passed the defence of reasonable punishment would no longer be available in Wales to parents, carers and guardians, and those acting in loco parentis facing a charge of assault or battery against a child in their care. Where the police find sufficient evidence for a realistic prospect of conviction they will have to consider whether it is in the public interest to charge.

Annex E – Definition of social grades

Table A.2, below, provides a definition of the social grade classification used in the analysis

Table A.2: Social grade definitions

Social grade	Definition
ABC1	
A	High managerial, administrative or professional
B	Intermediate managerial, administrative or professional
C1	Supervisory, clerical and junior managerial, administrative or professional
C2DE	
C2	Skilled manual workers
D	Semi and unskilled manual worker
E	State pensioners, casual or lowest grade workers, unemployed with state benefits only

Annex F – Sub-sample sizes

Table A.3, below, shows the number of respondents for each sub-sample used in the analysis. The numbers of respondents are given for the unweighted and weighted samples.

Table A.3: Sub-group sample sizes

Sub-sample	Unweighted sample	Weighted sample
Gender		
Male	430	487
Female	572	515
Age		
16-34	246	293
35-54	264	327
55+	491	381
Social grade		
ABC1	490	491
C2DE	505	503
Caring responsibilities for 7 and under		
Yes	186	207
No	814	793

Agenda Item 5

By virtue of paragraph(s) vi of Standing Order 17.42

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Agenda Item 6

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