

Agenda – Children, Young People and Education Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 22 May 2019

Meeting time: 09.15

For further information contact:

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Committee Clerk

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Private Pre-meeting

(09.15 – 09.30)

1 Introductions, apologies, substitutions and declarations of interest

(09.30)

2 Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill – evidence session 8

(09.30 – 10.30)

(Pages 1 – 42)

NHS Wales representatives

Dave Williams, Divisional Director – Family and Therapy Services, Aneurin Bevan University Health Board

Nicola Edwards, Head of Safeguarding, Swansea Bay University Health Board

Attached Documents:

Research Brief

CYPE(5)–16–19 – Paper 1 – The Welsh NHS Confederation

CYPE(5)–16–19 – Paper 2 – Swansea Bay University Health Board

CYPE(5)–16–19 – Paper 3 – Hywel Dda University Health Board

CYPE(5)–16–19 – Paper 4 – Betsi Cadwaladr University Health Board

CYPE(5)–16–19 – Paper 5 – Aneurin Bevan University Health Board

CYPE(5)–16–19 – Paper 6 – Cwm Taf Morgannwg University Health Board



Break

(10.30 – 10.45)

3 Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill – evidence session 9

(10.45 – 11.45)

(Pages 43 – 44)

National Independent Safeguarding Board

Jane Randall, Chair – National Independent Safeguarding Board

Jan Pickles, Member – National Independent Safeguarding Board

Attached Documents:

CYPE(5)-16-19 – Paper 7 – National Independent Safeguarding Board

4 Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill – evidence session 10

(11.45 – 12.40)

(Pages 45 – 56)

Royal College of Paediatrics and Child Health (RCPCH), Royal College of GP's (RCGP), Royal College of Nursing (RCN)

Dr Lorna Price, Wales' representative on the RCPCH's central Child Protection Committee

Dr Rowena Christmas, representative from the RCGP

Michelle Moseley, representative from the RCN

Attached Documents:

CYPE(5)-16-19 – Paper 8 – Royal College of Paediatrics and Child Health

CYPE(5)-16-19 – Paper 9 – Royal College of General Practitioners

CYPE(5)-16-19 – Paper 10 – Royal College of Nursing

5 Paper to note

5.1 Letter from the Chair of the Public Accounts Committee – Welsh Government update on the 21st Century Schools Programme

(Pages 57 – 71)

Attached Documents:

CYPE(5)-16-19 – Paper to note 1

6 Motion under Standing Order 17.42(ix) to resolve to exclude the public from the meeting for the remainder of the meeting

(12.40)

7 Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill – consideration of the evidence

(12.40 – 12.45)

Document is Restricted

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
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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.

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
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Organisation: Swansea Bay University 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)

Yes, the Health Board is in agreement with the Abolition of the Defence of Reasonable Punishment Wales Bill and the overarching objective to protect children's rights by prohibiting physical punishments by parents. Acknowledging that it will have an impact on Children, Parents, Social Care, Health, and Education.

The reasons are outlined below.

- Reasonable punishment can, under current UK law be used as a defence against common assault and Trespass Against the person by parents or guardians of children within in the home setting. Physical punishment within schools and other professionally run settings has been outlawed since 1986 under section 47 of the Education act (No 2) subsequently replaced by section 548 of the education act 1996. Therefore as the law stands currently children do not have the same level of protection from assault within the home as outside the home. The bill would provide equably status for children both in and outside the home to protection from Common Assault and Trespass against the Person.
- The removal of such defence would see children viewed equally to adults within the UK and as such have the same rights of protection from Common assault and Trespass against the person. This is in line with other legislation such as VAWDASV, and compatible with Article 19

of the UNCRC and current European Law. This would give children in Wales's equitable status in the eyes of the law as adults.

- The Bill doesn't define acts carried out by the parents towards their children which would not be acceptable once the defence is removed. However the principals of the bill would imply that removing the defence will not interfere with the principal of common law which allows parents to physically intervene to keep a child safe from harm, or to ensure compliance with non-physical forms of discipline.

Children learn what they live and any form of 'violence' is a learned response. Many parents already use other methods of reprimand that are successful and do not involve physical chastisement. There is a need to re-educate society in this regard and also support parents in learning interventions that facilitate them dealing with a child's behaviours via a non-physical approach

Nobody can define reasonable chastisement, it is a very fluid concept, for example if individuals smack do they all use the same force?

Physical abuse is often chastisement that goes too far and it does nothing to teach children about acceptable boundaries and acceptable behaviour and provides a bad example of how to manage strong emotions. This may lead children to hit and bully others or encourage children to hide and lie to avoid being smacked. It can make defiant behaviour worse so discipline gets harder which can lead to a resentful and angry child.

Damages family relationships.

Smacking is often not effective and often damaging to the child.

s.58 of the Children Act 2004 continues to breach Article 19 UNRCC by failing to provide children with equal protection under the law of common assault.

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, predominantly to ensure that children's rights are upheld and that they are afforded the same level of protection in law as adults. And that the UK is in line with the UNCRC.

In addition evidence from research suggests that countries where the legislation has changed and the defence removed report there is a shift in social thinking in respect of the use of physical punishment as a form of discipline of children. Evidence suggests that once the defence is removed adults shift their approaches to discipline to non-physical forms of behaviour management where there is a growing evidence base of efficacy.

Also it must be noted what constitutes reasonable physical chastisement is a very subjective notion and as a result it requires legislation to protect children and young people if their UNCRC rights under Article 19 are to be met.

As the practice is deeply embedded in our culture, and as such will take a long time to change, without the force of legislation behind it the physical chastisement of children and young people would continue and so become embedded as a 'norm' for the next generation of parents in many families.

Legislation is needed to deliver what this Bill is trying to achieve because there needs to be a cultural change in attitudes to smacking children it is not viewed generally as assault. However research is 50-50 as to whether legislation would be beneficial. In Sweden the government did a leaflet drop to all its citizens prior to legislation change. I feel something similar would need to happen here as there is a strong body of people advocating the law should not be changed identifying the tensions between children's rights and adult's rights. That legislation would set parents against the children and that current legislation is adequate regarding protecting children and that there would be an unacceptable intrusion into family life. Without a law change I don't feel much progress would be made in changing attitudes as smacking is equated to discipline which is seen as good. Children's rights need to be on par with adult's rights in terms of protection.

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)

Attitudes of individuals and personal belief systems in respect to parent's rights to discipline children. The Bill may in some instances raise a perceived conflict of interest between children's rights and the principal under the human rights act right to a private life free from intervention from the state.

Professional difficulties when balancing the rights of children and the potential criminalisation of parents.

Potential enforcement issues, and proportionate responses to allegations made could potentially overload public services and the criminal justice service.

Societal change is only achieved with sustained programmes of promotion and support, this will have a cost and resource implication for practitioners working with families, particularly those working with vulnerable groups.

Attitudes to change

Cost implications and limited resources

Overburden on public bodies

Diverting services away from crimes deemed more serious

Damage the trust between public bodies and families

Duty to report for some agencies.

Stigmatise and criminalise some parents

There will be arguments re infringement of parents rights on how to raise their children
"Nanny State"

How will this Bill be enforced?

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 outlines how the Bill has considered the points above, and demonstrates how some of these issues may be addressed in order for the Bill to achieve its purpose. Whilst the intent of the Bill is not to criminalise parents or prevent, parents from taking reasonable steps to act in a physical way to protect a child from immediate harm, or to facilitate appropriate behaviour management, more clarity in terms of definition of what is considered to be acceptable actions in this area may be needed.

Clarity needed re definitions interchangeable terms e.g. corporal punishment and physical punishment and proposed changes

Any extra funding that will be required to provide support to parents, guardians in terms of parenting groups, leaflets(bilingual) 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)

Practice for many years amongst professionals such as Health Visiting and Early Year's Educators has aimed to discourage physical punishment of children. Programmes such as Triple P and The Incredible Years Nurture Programme have routinely been offered to parents requesting support, to develop an alternative strategy to physical discipline. 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 is removed.

There is also the possibility that parents with most need may take a negative or fearful view of such programmes and practitioners may lose the opportunity of universal early intervention prevention offered by the current approach.

There is no clear consensus on the impact on services such as health services, police, CPs, the courts children's services, schools

Just having this discussion may change attitudes to smacking children attitudes are currently changing with there being an even split for a complete ban

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)

There will need for training, education and guidance aimed at practitioners within Health and Education to support them if disclosures of the use of physical punishment are made during the course of their work which necessitate a report to the Local Authority Children's Services or Police.

The Welsh Government state that they plan to build and maintain relationships with individuals and organisations to ensure that effected parties understand the changes being made. This will need to be robust and ensure that all affected parties are fully aware of their roles and responsibilities and how this will affect their duty to report under the Social Services and Well-being (Wales) Act, along with the implications for Local Authority Single Points of Contact/Common Access Points and potential management of cases brought to them as a result of the legislative change. There is a need to ensure a consistent approach to referrals made to statutory Services across Wales. This will inevitably come with a financial cost to each organisation.

It is currently incumbent on all statutory agencies to provide safeguarding training in respect to children and some of the long term cost will be mitigated if additional training is incorporated in to existing packages.

At present the cost to Local authority as a result of increased referrals is unquantified (as outlined in part 2 of the explanatory Memorandum) as such, so is the ongoing cost for partner agencies providing support via parenting programmes.

Support for parents and staff

Bilingual costs

Possible overburden of public bodies

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 fact that this is a potentially contentious issue should not prevent this legislation being progressed to ensure that children and young people are protected as societal change will take a long time to achieve and violence (in any form or at any level) breeds violence

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
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Organisation: Hywel Dda University 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)

The Bill supports the UNCRC. The risk if we condone physical punishment and parents feel it is acceptable practice then there is a risk that a smack can escalate to a serious injury for a child.

As stated in the explanatory memorandum, research suggests physical punishment is no more effective than non-physical approaches to discipline; therefore, parents need to learn other strategies when parenting children. The Bill should support a positive parenting approach.

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. Having legislation makes a clear statement to members of the public and professionals.

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)

Removing the defence must not interfere with the principles of the common law, which acknowledge that a parent can intervene physically. An example might be the physical intervention necessary to keep a child safe from harm, such as physically stopping a child from running into a road (as opposed to any physical intervention intended to punish a child for running into a road) or physically restraining a child to keep them from injuring themselves or others.

The Bill is unlikely to achieve the intended outcome in isolation. A significant awareness campaign will be required to achieve its aim.

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 Bill does not address the resource implications to achieve full implementation and public awareness.

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)

No

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)

No

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)

It is our view that we should be following other countries who have already implemented the change.

The Welsh Government may want to consider following the Scottish model which places a duty on Scottish Ministers to promote public awareness and understanding about the effect of the Bill. Certain groups and individuals may oppose the change and they need information and to be educated that it is not appropriate to physically punish a child

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

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Organisation: Betsi Cadwaladr University 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)

BCUHB is committed to upholding children's rights under the United Nations Convention on the Rights of the Child (UNCRC) and safeguarding children. The main aim of the Bill is to help protect children's rights by prohibiting the physical punishment of children by parents and those acting in loco parentis. It is clear that the Bill will remove the common law defence of reasonable punishment so it is no longer available in Wales, to parents or those acting in loco parentis as a defence to assault or battery, against a child. From a health perspective, this gives greater clarity regarding legality when providing a safeguarding service to children and families. This can only enhance the protection of children.

This Bill gives greater clarity and links clearly to the changes made in Section 58 of the Children Act 2004 although the UK Government review in 2007 suggested the reasonable punishment defence it appeared to have minimal use / reference in cases that have reached the stage or referral to the CPS or prosecution in court. Of those that were reviewed there appeared to be a lack of understanding/inconsistent use of the Charging Standard. This Bill will ensure consistency in the amendment of the Charging Standard to make it clear the defence no longer applies in Wales. Again, this will ensure fairness and a standardised process to all children who are subjected to abuse and in doing so with a human rights approach.

BCUHB agrees with the principles regarding disciplining of children and what is acceptable or not. When caring for children it is important to ensure children are allowed to develop in a

household with boundaries. This enhances their child development and future transition into adulthood. The difference 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 could be a challenge. This would require health visitors/school nurses and other health professionals to contribute to early intervention/prevention learning. The Research published in 2018, highlighted that 35% of parents accessed advice and information on managing children's behaviour from health professionals. This will subsequently greatly increase and must be recognised that this will have an impact on health resources. This section could be linked to Adverse Childhood Experiences (ACEs) and parents experiencing learned behaviour from their parents.

BCUHB agree that raising awareness of the Bill is key to parents and those acting with parental responsibility before there is a change in the law. This will require a multi-agency approach and the Regional Safeguarding Children's Boards will require engagement.

On reading the section on – Impact of Public Bodies – this only mentions engagement with relevant bodies including police/social services. Health are key to this and this needs strengthening. The additional legislation will be required to be embedded into safeguarding children's training, relevant information, policies/procedures and guidelines within BCUHB. Nationally this will also need to be embedded within 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)

BCUHB does agree that there is a need for legislation to deliver what this Bill is trying to achieve. It is clearly written and emphasises that this Bill would not create a new criminal offence but that the legislation would be that the physical punishment of children by parents in Wales would be prohibited. BCUHB agrees with this and it is not acceptable to "do nothing".

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)

No - but good to have an Implementation Group. Might be training issues for Health Boards.

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)

Yes - training seems to have been considered within the Bill.

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)

There potentially might be a rise in safeguarding children's reports to Social Services and Police, which will require monitoring. This will have an effect of 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)

The Bill appears to suggest there will be limited financial implications of the Bill. It discusses the provision of Flying Start and Universal Services for Health Visitors and that the current provision will be sufficient thus incurring no additional costs by WG. It must be remembered that Health Visitor and School Nursing Services are carrying considerable vacancies and thus further investment might be required to fulfil the principles of the Bill. In addition, Flying Start only provides services to those in certain postcodes so what provision will be provided to those outside Flying Start areas. Children subjected to physical punishment are living in all families not just those in the lower socio-economic groups.

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)

No.

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

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Organisation: Aneurin Bevan University 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)

Support for the bill includes:

- A welcome acknowledgment that the bill encourages the use of positive parenting, as a more acceptable form of behaviour management.
- Will supersede current legislation where there can be difficulties around the interpretation of "acceptable conduct" and there could happen a possible risk of flouting / evading the current law due.
- We fully support the UNCHRC and support actions that protect children and young people from any forms of violence. This legislation will protect children in the same that adults are protected from assault.
- This legislation will help to protect children from the psychological and long term damage to the emotional wellbeing of children.
- The legislation supports the evidence of the impact of domestic abuse on children in relation to Adverse Childhood Experiences WG (2015)
- The word "injury" used on page 4 of the summary indicates harm at any level
- The proposed legislation acknowledges that behaviour change is a psychological , cognitive , developmental and learning experience for the child which takes time , positive support and appropriate techniques by parents

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 without legislation again this could be open to interpretation by parents and agencies and potential different thresholds and levels of intervention
- Same answers as for first question
- Legislation will definitely improve the safeguarding of children
- Services that are directly involved in the safeguarding arena have experienced many occasions within a safeguarding meeting, where parents and professionals have justified their violent actions towards their children with an excuse of the fact that no breach of common law has occurred and stated "it is not against the law".
- There is evidence that parents who have experienced violence against themselves as children from their own parents often consider that it "did me no harm" when in fact they go on to assaulting their own children. This act demonstrates that indeed harm has occurred to themselves as a child because they perpetuate intergenerational behaviours of abuse to children.
- The proposed legislation that it sends a clear message that in our society 21st century that we are very far away from historical attitudes and that we value and cherish our children as most vital for our future generations.

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)

Possible Barriers include:

- Limited resources to enable wider public and professional , governmental , service adoption of the new law
- Ongoing sustained Public campaigns are vital
- Culturally diverse communities will require sensitive education and support

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 Bill could go further to ensure that finance and education is made available for parents and organisations to embed a pledge , policies , procedures of no tolerance of violence to children.

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)

Possible unintended consequences could include:

- Reduced self-reporting by parents
- Increased referrals and prosecutions
- Increased support for vulnerable groups will be essential to educate and inform

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)

The following financial implication should be considered:

- Production of National Media Campaign material
- Preventative work
- Educational packages
- Updating training packages
- Updating Policies/processes

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)

What happens if a Welsh child is subject to physical punishment outside of Wales?

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
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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

CYPE(5)-16-19 – Paper 7

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
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Organisation: National Independent Safeguarding 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)

Children in Wales should have the same rights and protections in law as adults in Wales. Removing the defence of reasonable punishment is an important step in upholding their rights.

Restrictions on the use of this defence are already in place so removing it completely eliminates any ambiguity about when it is acceptable to use physical punishment on children and when it is not.

Research does not support any link between physical punishment and improved behaviour in children and it is out of step with the ethos of promoting positive parenting styles in 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)

There is the need for legislation to support the principles the Bill is trying to deliver.

Evidence from other countries that have introduced similar legislation has shown that there is a link between such legislation and the changing attitudes of parents and wider society particularly when it is in conjunction with sustained information campaigns and support to parents.

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)

No

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)

-

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)

No

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)

No

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)

No

CYPE(5)-16-19 – Paper 8

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
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Organisation: Royal College of Paediatrics and Child Health (RCPCH)

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 UN Convention on the Rights of the Child includes protecting children from violence. It is unacceptable for children to be physically assaulted in any context. Historically, corporal punishment was tolerated but this is no longer acceptable in today's society.

We note the NSPCC's Review of the Evidence on the Physical Punishment of Children report (based on work carried out by researchers at the Department of Epidemiology and Public Health at University College London) and its key findings that:

- physical punishment is in decline in many countries, including the UK
- physical punishment is associated with increased childhood aggression and antisocial behaviour
- experiencing physical punishment is related to depressive symptoms and anxiety among children
- physical punishment carries a serious risk of escalation into abuse

<https://learning.nspcc.org.uk/research-resources/2015/equally-protected/>

The RCPCH has been concerned that the four UK Nations have been slow to heed the calls of the UN Committee on the Rights of the Child and follow the example of 50 other countries that have banned the physical punishment of children outright. We are pleased that Wales and Scotland are now leading the way on this issue.

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)

Paediatricians continue in practice to encounter parents/carers who are unaware of the evidence relating to the use of physical punishment. In preparing this response, one RCPCH member told us that:

“parents openly admit within a clinic setting to physical chastisement stating that their child ‘needs to learn how to survive in this world’ and ‘know how to toughen up’. Others will admit to hitting but would never hit hard enough to leave a mark, not knowing the emotional and psychological harm that this form of chastisement, irrespective of physical harm, does to a child.” (RCPCH member in Wales, May 2019).

Legislation can be a key driver of the kind of cultural or attitude change we need to see regarding the physical punishment of children. The wearing of seatbelts and changed attitudes and behaviour since the introduction of legislation to ban smoking in public places are good examples.

Paediatricians also report encounters with professionals using ‘rule of thumb’ judgements in the past as to what level of physical punishment of children might be justifiable and what should be escalated.

Having a legal framework which categorically states that assaulting a child can be ‘justifiable’ is hampering those who work with children and families from delivering clear, evidence-based advice. The proposed legislative change could therefore support parents, carers and guardians as well as professionals working with children or in child protection services by removing this ambiguity, providing consistency and clarity both to professionals and to parents and giving children the best possible protection.

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 are not aware of significant barriers to the implementation of the Bill, but there will of course need to be work done to ensure that the proposed changes are properly communicated and existing systems adapted to reflect and implement the legislation.

For example, health care professionals have mandatory training in Child Protection Level 1. Those who are in contact with children are trained to Level 2 or 3 (Safeguarding Children and Young People: Roles and Competencies for Health Care Staff. Intercollegiate document; RCPCH, March 2014 - <https://www.rcpch.ac.uk/resources/safeguarding-children-young-people-roles-competencies-healthcare-staff>). It may be appropriate to consider including information about the updated legislation as part of the essential child protection training that is required to meet the core competencies (which were updated recently: <https://www.rcn.org.uk/professional-development/publications/007-366>).

In Wales, competency in child protection is part of the appraisal and revalidation system. Health Education and Improvement Wales (HEIW) may need to consider how this system responds to the change in legislation.

We understand that the All Wales Protection Procedures (for children and adults) will soon replace the 2008 Child Protection Procedures. The frameworks and resources used by paediatricians and other professionals involved in child protection are regularly updated to reflect the most recent evidence, legislation and policy. We envisage that this would be part of these processes.

It is important that a campaign of information and support for parents/carers takes place to support the implementation of equal legal protection. Again, we believe that this should not be seen as a barrier but as an opportunity to better support parents. We are encouraged that the Welsh Government is already considering how to do this and note the Parenting: Give It Time campaign and resources (<https://giveittime.gov.wales/?lang=en>)

Support and information for parents should be built into the Welsh Government's early years programmes and policies. The RCPCH State of Child Health Recommendations for Wales we published in 2017 included a recommendation that:

"The Healthy Child Wales Programme should ensure local authorities and health boards prioritise children's safety, and through utilising resources such as health visitors and home safety equipment schemes, educate and equip parents and carers to keep their children safe"

Clearly, this represents an opportunity to improve children's safety.

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)

-

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)

-

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)

-

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)

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
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Organisation: Royal College of General Practitioners

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)

Several hundred studies over decades have explored the links between parental physical punishment and child outcomes. Establishing causal links when randomised controlled trials are not

ethically feasible is a challenge. Longitudinal studies are limited by an inability to control all confounding variables, and so cannot categorically establish causal relationships. Most of the evidence to assess the link between physical punishment and child outcomes comes from correlational studies, many of which have been collected into meta-analyses. These often come to different and sometimes opposite conclusions. Despite these challenges, the potential risk to children's development was found in virtually all studies including when controlled for potential confounders.

Examples include:

- Impaired relationship with parents.
- Impaired child mental health.
- Impaired adult mental health.
- Increased risk of moral internalisation.

- Increased incidence of child aggression.
- Increased risk of being physically bullied.
- Increased delinquent or antisocial behaviour, reduced ability to manage situations verbally.
- Increased incidence of adult crime.
- Increased risk of abusing own child or spouse.

Overall, the balance of evidence supports the following conclusions:

- There is strong evidence that severe physical punishment and child abuse are harmful to child development.
- There is evidence that the way and conditions in which physical punishment is typically used by parents is correlated with a broad and enduring range of negative outcomes for children.
- No replicated peer-reviewed research has shown that parental physical punishment has positive effects on long-term developmental outcomes.
- Physical punishment is only effective in achieving immediate compliance in limited conditions and the same outcome can be achieved using isolation.
- The incidence of using physical punishment is higher in homes where domestic violence is also occurring.

Despite a wealth of evidence to suggest a correlation between parental physical punishment and negative outcomes for children, it is only possible to conclude that there is a correlation, not necessarily a causal link, between parental physical punishment and an increase in childhood problem behaviour and other outcomes. Supporters of a ban on physical punishment argue that replications of these correlations are enough to draw the conclusion that parental physical punishment is linked to childhood problem behaviour and that this evidence of the risk of harm is enough to support a ban.

The balance of evidence seems sufficiently clear and compelling to inform us that parental use of physical punishment of children plays no useful role in their upbringing and poses only risks to their development. With this in mind, parents should be encouraged to develop alternative positive approaches to discipline.

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)

It is the College's view that there is a need for legislation to deliver what this Bill is trying to achieve.

There are signs in the UK that the prevalence of physical punishment is decreasing and that public attitudes are changing, but there continues to be a diverse range of public attitudes and many people hold polarised, strongly held views.

Parents from both sides of the debate want to raise children who are secure, loving and confident, with a clear internal moral compass. The debate about parental physical punishment is often driven, at least in part, by value judgments about how children should or should not be raised, rather than by empirical evidence. It can be difficult to disentangle robust science from well-intentioned advocacy efforts.

Children's attitudes towards parental physical punishment vary but are generally negative. Younger children and those who have experienced physical punishment are more likely to support its use. Nonetheless, children view physical punishment as the most severe type of discipline and report that it hurts them both physically and emotionally. Some children associate it with angry parents who later regret their actions. Some describe feeling scared, sad and unloved and say that it negatively affected their relationship with their parents. Some children think that parental physical punishment encourages children to use physical violence and suggest that restricting privilege is a more effective form of discipline, being longer lasting, causing more inconvenience and giving the opportunity to reflect on their actions. The available evidence suggests that children believe that discipline and punishment, when explained and administered fairly, can play an important role in a child's healthy development.

There are concerns that parental physical punishment is linked to childhood behaviour problems through modelling and legitimising aggression and violence. Several psychological theories predict physical punishment will make children's behaviour worse not better. Social learning theory (Bandura 1977) suggests that smacking can teach children that aggressive action achieves a desired outcome and so they imitate their parents by acting aggressively with their peers.

Attribution theory (Grolnick, Deci, Ryan 1997) states that physical punishment will interfere with children's internalisation of moral reasons not to act in an aggressive or self-interested way. Attachment Theory (Bowlby 1980) suggests that parental use of physical punishment negatively affects the parent-child relationship and therefore decreases the child's willingness to internalise parents' values.

Parental physical punishment is a violation of children's rights according to the UN convention ratified by the UK. The UNCRC and the European Court of Human Rights have criticised the UK for not enforcing children's rights to be protected from all forms of physical

or mental violence. Specifically, it opposes the defence of 'reasonable punishment' pointing to the imprecise nature of this expression, saying that this undermines the law's ability to protect the rights of children. In contrast to the UK, 29 European states have prohibited the use of physical punishment in all settings and others have expressed a commitment to enacting full prohibition.

Some researchers conceptualise physical punishment and physical abuse along a continuum and do not think it is possible to distinguish 'non-abusive' physical punishment from physical abuse. Some studies suggest that physical punishment is linked to child abuse. It is relevant to note that most child physical abuse occurs in the context of 'punishment.'

It is a concern that when smacking fails, parents who rely on this method of discipline tend to intensify its use rather than change strategies. 85% parents express moderate to high levels of anger when smacking their children.

In place of physical punishment, professionals should promote positive, supportive and loving parental relationships with positive reinforcement to increase desired behaviour. Parents should be clear about what bad behaviour constitutes and what the consequences of it will be and why. They should deliver instructions calmly and with empathy and use consistency with strategies such as Time Out and removal of privileges for punishment. It is important to also note that verbal reprimands, where appropriate, should be directed towards the behaviour and not the child's character.

There is a well organised campaign for those opposed to the smacking ban. This group is concerned that good parents will be turned into criminals, but evidence from countries who have this ban in place does not suggest this should be a concern. Advocates of physical punishment suggest that criminal and anti-social behaviour is caused by a lack of discipline. They believe that physical punishment may be used to control the short-term behaviour of the child and to reinforce the authority of the parent. However, there is no evidence to suggest physical punishment is more effective than other methods of discipline.

The emerging consensus of professionals is that parents should be supported in learning non-violent, effective approaches to discipline. Children need the same protection in law that adults enjoy.

It is important to recognise that a society which wants to achieve no physical punishment of children needs to provide adequate support for parents. We must ask how what would be considered assault towards an adult, can be acceptable to a much smaller, more vulnerable human who is defenceless and reliant on their parent to teach right from wrong. The change in the law would send a clear message that physical violence towards children is wrong on any level. This will help to change attitudes over time and may help to stop parents smacking their children in anger, in the knowledge that this is a hard line that must not be crossed.

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)

-

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)

-

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)

-

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)

-

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)

-

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

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Organisation: Royal College of Nursing Wales

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 traditional defence of 'reasonable punishment' works against the aims which we and any modern Government should share: the encouragement of positive parental discipline in all families, and assurance of effective child protection in the few cases where it is needed. The existence of the 'reasonable punishment' defence is an out-dated legal anomaly, and it is right that children and young people should have the same protection from corporal punishment as adults do.

Clarity in the law will also help Registered Nurses such as Health Visitors, School Nurses and Children's Community Nurses to give clear advice to parents. It would eliminate the current potential for confusion over what is acceptable and provide a clear basis for child protection.

The UN's Committee on the Rights of the Child has called on the UK to remove the reasonable punishment defence on several occasions, and RCN Wales welcomes Welsh Government leading the way in the UK in implementing this.

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

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 Royal College of Nursing Wales is not aware of any barriers to implementing the Bill. It is important however that nurses and health professionals working with children, young people and their families are supported with the appropriate information and education opportunities to enable them to be confident in delivering clear and consistent messaging.

Guidance on what health professionals should do if they witness a child being subjected to physical punishment should be issued. Information and guidance should also be made available for Health Visitors, School Nurses and other professionals to share with parents, carers and guardians in order to help educate and raise awareness amongst the public.

This work should be part of a wider, longer-term piece of work focussed on celebrating children's rights, including the right not to be punished with physical force.

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)

N/A – there are no perceived barriers to implementation.

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)

No

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)

No

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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Lynne Neagle AM
Chair of the Children, Young People and Education
Committee
National Assembly for Wales
Tŷ Hywel
Cardiff Bay
CF99 1NA

14 May 2019

Welsh Government update on the 21st Century Schools Programme

Dear Lynne,

The Public Accounts Committee considered the 21st century schools and education programme in 2018 following an Auditor General's report. We received the enclosed update from the Welsh Government, on the progress of Bands A and B of the Programme and progress made against the Auditor General's Recommendations.

The Committee agreed that I would write to you as Chair of the Children, Young People and Education Committee, to see whether you would be willing to explore the progress of the Band B programme during a Ministerial Scrutiny sessions. I am also writing to the Chair of the Finance Committee regarding the Mutual Investment Model.

Yours sincerely,



Nick Ramsay AM
Chair





Llywodraeth Cymru
Welsh Government

Tracey Burke

Cyfarwyddwr Cyffredinol / Director General

Y Grŵp Addysg a Gwasanaethau Cyhoeddus
Education and Public Services Group

28 February 2019

Dear Mr Ramsay,

21st Century Schools and Education Programme

In your letter dated 24 July 2018, you asked for a further update in January 2019 on Band B of the 21st Century Schools and Education Programme, including the issues raised in your letter and the Auditor General's recommendations. You also asked for an update on the Band A position.

I have prepared the attached update paper, which I hope is helpful to the Committee.

Please let me know if you would like further information or clarification.

Yours sincerely

Tracey Burke

Director General, Education and Public 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.

WRITTEN RESPONSE TO THE PUBLIC ACCOUNTS COMMITTEE

21st CENTURY SCHOOLS AND EDUCATION PROGRAMME

Introduction

As requested in the letter from the Chair of the Public Accounts Committee of 24 July 2018, this paper provides a further update to my letter of 21 August. It covers Band B of the 21st Century Schools and Education Programme, including the issues raised in your letter. It also provides an update on the Auditor General's recommendations.

1. Programme Update

Band A

Band A of the Programme will officially end in March 2019, having seen over £1.4 billion invested in the education estate across Wales since 2014. As of December 2018, Band A will have supported 170 school or college rebuild or refurbishment projects. To date 134 of these have been completed and a further 27 are under construction. We are working with our delivery partners on a further five projects which we still hope to support under the Band A umbrella.

Annex A provides a break down of Band A progress by delivery partner. Business Justification Cases (BJCs) are typically used for smaller projects under £5 million in total value. The information is in a different format to that provided previously. The Tables provided in my June 2018 paper were put together in a bespoke way, specifically for my Committee appearance. The Table in Annex A is what we provide on a monthly basis to the Investment Panel and is regularly updated and verified. It highlights that Band A is now substantially complete. There are lots of reasons why projects do not get delivered or are delayed. Similarly, opportunities for additional or urgently needed projects often appear and require support at short notice. It's this flexibility that enables the programme to deliver as it has.

Band B

Band B of the Programme officially begins in April and will see a further £2.3 billion invested. However, we are already working with our delivery partners to get Band B projects off the ground. Under Band B we have received 21 business cases to date, four of these are for Further Education (FE).

Six business cases, with a combined capital value of £45.8 million, are fully approved and under construction. They are: –

- Carmarthenshire – Ysgol Pum Heol
- Carmarthenshire – Ysgol Pembrey
- Conwy – Ysgol Gogarth
- Flintshire – Connah's Quay High School Phase 3
- Swansea – EOTAS unit

- Coleg Cambria – Yale Technology Hub

Two other business cases, with a combined capital value of £32.4 million, have very recently been approved by the Investment Panel but, at time of writing, have yet to receive Ministerial approval.

Band B will build upon the strengths of the previous Band:

- Ownership and governance will continue in partnership between the Welsh Government, Welsh Local Government Association, Colleges Wales and Diocesan Directors;
- The prioritisation and pace of delivery will continue to be set by our delivery partners based on local priorities and need; and
- Business cases for investment will be developed and tested utilising the 5-Case Treasury Model.

However, we have also looked to strengthen programme delivery based upon what we have learned during the delivery of Band A. Band B delivery will therefore benefit from:

- Simplified business case templates to reduce unnecessary duplication of effort;
- Broader membership of the Welsh Government’s Business Case Scrutiny Group, to ensure cross-policy benefits and outcomes; and
- Standardised size and cost benchmarking, to ensure that as many learners as possible benefit from a 21st Century learning environment.

In order to ease the pressures on our delivery partners’ budgets, whilst also maintaining our high ambition for the Programme, the capital element of Band B will also benefit from higher Welsh Government intervention rates. This increase is implemented to provide additional financial support to local authorities and colleges to assure the Programme’s continued financial viability:

- An increase from 50% to 65% for all capital funded mainstream school and college projects; and
- An increase from 50% to 75% for special schools and pupil referral units (PRUs).

With our delivery partners we also plan to restate the strategic nature of the Programme prior to the commencement of Band B along with a renewed ambition that will seek to provide:

- A new generation of schools and colleges that are learning centres for their wider communities; and
- More hubs for community services, offering not just education but a wider array of community activities through improved planning and join-up of infrastructure budgets.

Mutual Investment Model

In August, I wrote to the Committee in response to its request for assurances that the MIM represented the best value in the round. Since then, by way of a more general update, considerable progress has been made developing the MIM Education Programme. An intensive schedule of briefings has taken place with local authority Chief Executives, Section 151 officers and Directors of Education. Presentations have also been made to the Society of Welsh Treasurers, Association of Directors of Education in Wales and the Consortium of Local Authorities in Wales; as well as detailed discussions with potential MIM project sponsors in the local authorities and colleges.

The engagement culminated in an information day held on 6 November at the Coal Exchange in Cardiff. This event saw 130 representatives attend to hear about the MIM Education Programme and the Welsh Education Partnership (WEP) Strategic Partnering Procurement. Attendees on the day consisted of a large cohort of private sector contractors, funders and advisers, as well as local authority and college representatives. A number of the latter came forward to present their MIM projects. The day demonstrated the significant interest in the MIM Education procurement and the confidence that potential private partners have in the deliverability of the Programme.

As well as intensive engagement with stakeholders, the MIM Education Team has compiled a comprehensive set of documentation, including the template MIM Education Project Agreement, Payment Mechanism, the Strategic Partnering Agreement and the associated Shareholders Agreements. [These documents](#) were uploaded to the Welsh Government website on 30 November to solicit feedback from all interested parties. A second suite of documents was uploaded to the website on 20 December, including the Authority's Technical Requirements and strategy papers on Energy, Community Benefits and Business Information Modelling (BIM).

Further engagement has also taken place with the Assembly itself. Welsh Treasury officials provided technical briefings on the MIM to the Economy, Innovation and Skills (EIS) Committee on 3 October and the Finance Committee on 29 November. These briefings were well received and, where there is demand for further technical briefing, Welsh Treasury and Education officials will work together to ensure that material is provided.

After careful consideration it was recommended that, taking into account the increase to the capital intervention rate, the Welsh Government contribution towards MIM schemes should also be increased. Consequently, on 7 February Local Authorities and FEIs were informed that the intervention rate on MIM schemes was increased from 75% to 81% representing a broadly comparable uplift to that applied to the capital side of the Programme. Local Authorities and FEIs were also asked to reconsider whether they would like to swap any of their capital schemes for delivery via the MIM route.

2. Other areas where the Committee sought further assurance

Your letter of 24th July sought further assurance in six areas - collaborative ethos, demand for places, energy performance, technical support, community benefits and active travel.

Collaborative ethos - where there was a discrepancy between the WLGA evidence and that of Welsh Government. Would want to see that the joint working and collective ownership continues into Band B.

In August, I highlighted that the collaborative arrangement between Welsh Government and the WLGA and local authorities was a successful example of genuine co-construction and central-local relations.

The programme continues to be founded upon collaboration between the Welsh Government, Welsh Local Government Association, Colleges Wales and Diocesan Directors, whom are all represented on the Programme Board. A good recent example of this is the Minister's decision in November to increase the Welsh Government's intervention rates for the capital element of the Programme, which was taken following extensive discussions with our business partners and on advice from the Programme Board.

Demand for places - we were not convinced on the responses we received around the flexibility of the programme to adapt to changes in the birth rate. In particular, we wanted to know whether the programme was factoring in technical solutions to the fabric of schools that mean they can build in flexibility – for example to open and close or re-purpose classrooms - as the demographics change.

In August, I advised that local authorities adjust school configuration and employ various design techniques as demographics change. Local authorities continue to employ a variety of technical solutions to build flexibility to manage changes in the demand for school places. A good recent example of this is two Band B Welsh-medium schools shortly to be built in Swansea. These are being 'future-proofed' in terms of their communal areas so that the schools can be easily expanded to a higher intake capacity by adding additional classrooms should there be an increase in demand for places over time.

Energy performance - we were not convinced that the Welsh Government understood the concerns on energy efficiency savings. Your evidence said you were good at specifying the savings up front but those specifications are not leading to the cost savings expected. We think there is a wider issue of the realism of the potential savings from energy efficiency that needs to be factored into plans up front. We would like to see the Welsh Government take a lead role in challenging the industry if industry specifications are not actually delivering the sorts of financial and environmental benefits you would like to see. The WLGA has suggested that MIM contracts would look to transfer risks associated with the energy efficiency of the design of buildings to the private sector and we would also welcome clarification of how the Welsh Government expects that risk transfer to work.

In August, I advised that we had commissioned a report giving details of how to avoid the performance gap, with resulting Best Practice Guidance being shared with delivery partners and stakeholders. The issue of energy efficiency remains a serious consideration within the Programme. However, whilst we recognise there are concerns that savings for new schools have been below what was expected, we do not yet have sufficient evidence to be able to assess whether this is the case.

Now that the post-occupancy evaluation survey has been rolled out to our delivery partners, we will expect it to be completed in respect of all school projects funded by the Programme. Baseline data will be collected before the start of the project, with data on the completed project collected in years 1, 2 and 5 following project completion.

The Building operation section of the post-occupancy evaluation survey collects information on utility bills, energy consumption, performance and utilisation of renewable technologies and water. The section collects information on the school's:

- Display Energy Certificate;
- Electricity use (both mains and renewable technologies); and
- Heat use (both mains gas and renewable technologies).

Whilst a funding requirement of an EPC 'A' rating is to be achieved by projects, the survey should enable local authorities and the Welsh Government to identify any gap in performance once the school is open. By monitoring Display Energy Certificates it will be possible to see design intent and actual energy consumption and how this may improve or deteriorate over time.

Technical support - we had evidence from the Design Commission Wales whose services are clearly not being used as they could be to support the delivery of the Programme. We would like the Welsh Government to rethink how it can make best use of the Design Commission to support the successful delivery of Band B alongside its consideration of the wider technical support that is needed. While you explained that the support that has been provided to date by Constructing Excellence Wales was for three discrete projects, members remain concerned about whether sufficient technical support will be available to support delivery of the Programme in the next wave. It is for the Welsh Government to decide who provides that support. However, we would welcome an update on your plans in the context of recommendation 10 in the Auditor General's report and taking account of the lessons learned from the impact of the technical support provided during Band A and any capacity/capability constraints in the organisations responsible for project delivery.

When I last wrote to you, I advised that we used the Design Commission to provide input at the beginning of Band A and we intended to do the same for Band B. Since August, officials have met with the Design Commission for Wales twice to discuss its role in supporting the Programme. This conversation will continue with a focus initially on encouraging our delivery partners to engage with the Commission at an earlier stage in the design process than is currently the case.

A key benefit emerging from Band A of the Programme has been the considerable body of delivery expertise and knowledge built up within our delivery partners. A recent workshop, held with our delivery partners to review lessons learned from Band A with a view to gearing up for Band B, has confirmed that most are confident that they have the skills and knowledge to deliver Band B effectively. However, we will continue to commission, draw upon and provide external expertise and support when it is required.

In terms of MIM, some of our delivery partners do have experience of delivering Public Private Partnership schemes. However, we recognise that this is not universally the case and that a multi-disciplinary team will be required at the centre in order to provide advice and support. Resource for this has been agreed with the Minister and recruitment into key roles is under way. The make-up and capacity of this function will be reviewed regularly to ensure that it remains effective.

Community Benefits - we welcome the commitment to community benefits. It is clear that there are complexities involved in making school facilities more available to the communities. We recognise that ultimately it is the governing body's responsibility. However, the Welsh Government and councils have significant leverage through the funding provided through the programme. We would like to be assured that the Welsh Government is using that leverage to full effect to ensure that wherever possible and feasible, schools funded from the programme make their facilities open to community use.

In August, I advised that we had established a task and finish group to look at ways to overcome or remove barriers; to encourage the wider community use of educational assets and disseminate best practice and funding. As noted earlier in this paper, we are to restate the strategic aims of the programme so that this second wave of investment seeks to provide a new generation of schools and colleges that are learning centres for their wider communities. We also want the Programme to look to provide more hubs for community services, offering not just education, but a wider array of community activities through improved planning and join-up of infrastructure budgets.

In October, the Welsh Government Budget Statement included an additional £15 million of capital support to fund innovative projects that will help to demonstrate what is possible in terms schools becoming hubs for community services. An invitation to bid for this money was made to local authorities on 30 November.

We intend that the successful projects will be taken forward in the coming financial year. This will be followed up with guidance and case studies to encourage the spread of good practice and overcoming barriers to community use of education facilities.

Active travel – we are not convinced that the Active Travel (Wales) Act 2013 is being given sufficient consideration. Your recent letter appears to acknowledge a need for greater scrutiny and challenge in this respect and we would ask for clarification of what this will mean in practice. If the Welsh Government can highlight specific examples where Active Travel opportunities

have been maximised then we would be interested to learn of them. Similarly, examples of where poor consideration of active travel access in business cases has been addressed.

In August, I advised that we had updated our business case guidance to incorporate key messages with respect to active travel. The enhanced scrutiny of business cases in terms of compliance with the Active Travel Act is working well. Over the last few months, there have been a number of good examples where active travel requirements were not sufficiently detailed in business cases for investment and local authorities were pressed for further information on how they will enable pupils to travel actively to school; what walking, cycling and scooter routes are available; and on the provision of cycle facilities, such as storage. We are aware of the Committee's concerns in this area and will continue to keep this under review during the lifetime of the Programme.

3. Progress against the Auditor General's recommendations

The evidence I provided to Committee on 8 June 2018 included an update on the actions undertaken in response to the specific recommendations in the Auditor General's Report. At that time three of the ten recommendations had been completed. The information below provides an update on the remaining recommendations in the Auditor General's Report.

Recommendation Two

Going forwards, the Welsh Government is likely to make some substantial changes to the way the programme is funded and managed. The Welsh Government will need to finalise updated governance arrangements for Band B of the programme that take appropriate account of:

- ***the complexities of making use of revenue funding, learning from the experience of other parts of the UK; and***
- ***any shift in the balance of funding between partners.***

Complete

Governance arrangements for Band B have been revised and refreshed alongside our delivery partners. The membership and Terms of Reference for the Programme Board and a revised Programme Investment Panel have been agreed. Both bodies have met. Membership of the Business Case Scrutiny Group has also been refreshed to include CADW and others.

The balance of funding for capital and revenue funded schemes has recently changed and will be kept under review to ensure that it remains balanced in terms of affordability across all partners.

Recommendation Four

A national condition survey in 2010 helped to provide a clear baseline on the condition and suitability of the school estate, although there has been little public reporting of the data or the progress of the programme nationally. Since then, councils have updated their data annually. A sample survey was also carried out in 2016 to assess consistency of data. Given the proportion of schools that were judged to be incorrectly categorised, we recommend that the Welsh Government:

- urgently issue updated guidance on classifying schools, setting out any common issues and errors identified in the sample review;***
- require councils to update their assessment of every school, based on the updated guidance.***
- carry out another review of a sample of the data to check that councils are applying the categories correctly and consistently; and***
- report publicly on progress to improve the condition and suitability of the school estate alongside achievement of wider benefits.***

A, B and D complete. C under review

Revised guidance on the methodology used during our sample survey was issued to local authorities and colleges in 2017. The guidance and methodology became

mandatory in 2018/19, which will be the first year that all of our partners use the revised approach for their condition survey. Once all data has been received and analysed further action will be considered, including whether a further sample survey is necessary to test the data.

To ensure greater transparency in reporting, we continually update the 21st Century Schools website to report programme progress in respect of school estate improvement and wider programme benefits. At the end of Band A, we will publish on our website details of completed projects to show investment throughout Wales. We also plan to expand our project portfolio online to include photographs of recently completed projects.

Recommendation Six

Some of the completed new school buildings are not achieving the Welsh Government's energy efficiency and sustainability targets for the programme. We recommend that the Welsh Government strengthens its work with councils to:

- a. liaise with industry experts to understand the gap between expected and achieved energy efficiency performance and how it can be remedied and reduced in future projects.***
- b. challenge business cases that rely on significant savings from energy efficiency technology in the whole life cost assessment robustly; and***
- c. encourage schools to assess their energy use when the building is first occupied and then annually to ensure that they are benefitting from the anticipated recurring savings in energy costs.***

Complete

A Best Practice Guide has been prepared and was presented to business partners at three seminar events held in May 2017. The Guide was prepared by Constructing Excellence in Wales in consultation with the construction industry. Our Business Case Guidance has been amended to take into account these recent developments and was published in May 2018.

All business cases received are scrutinised by an economist during the assessment process to ensure robust challenge of the value for money of projects and includes consideration of whole life costing and identification of potential cost reductions as a result of the build. Our economists have run three Economic Case Training events for our delivery partners, which improved their understanding of the requirements for business cases to clearly demonstrate value for money.

A post-occupancy review has been developed that captures a range of information, including the anticipated energy use in a new or refurbished building, and the actual use upon occupation to ensure that savings are being made in line with expectations. Its use will ensure that baseline data is collected before the start of a project, with follow up data on the completed project collected in years 1, 2 and 5 following completion.

Recommendation Seven

Analysis of the costs of completed Band A projects shows significant variation in the total costs as well as in ICT and fixtures, fitting and equipment costs. New schools have exceeded the maximum industry area standards by 7-10%. Some projects are using an approach known as Building Information Modelling in the design and construction phases that has been shown to achieve time and cost savings as well as improving quality. The Welsh Government should build on work already carried out to:

- a. reach agreement with councils, other partners and industry representatives on the options for bringing greater standardisation to the projects including floor area and elements of the build;***
- b. require the use of Building Information Modelling in projects within the programme; and***
- c. provide more detailed guidance about the level of IT and fixtures, fittings and equipment that can be funded from the programme to ensure consistency between projects.***

Complete

Benchmark cost and size standards for building works and for IT and fixtures, fittings and equipment (FFE) have been signed off by the Programme Board and Investment Panel. These are being applied and tested during the business case scrutiny process for Band B.

Building Information Modelling will be applied to the Programme once a Welsh Government-wide approach has been agreed and signed off. We do not currently have a date for when that might be. Progress on this will be monitored by the Programme Team and reported to the Programme Board.

Recommendation Eight

There is evidence that the regional procurement frameworks are not operating as intended, with some duplication and councils not adopting good practice in procurement methods. The Welsh Government should:

- a. ensure that councils adopt accepted good practice in the approach to construction with a presumption in favour of design and build (excepting projects funded through the Mutual Investment Model);***
- b. improve communication with industry on the likely timing and scale of work under the frameworks;***
- c. understand and address the reasons why some councils are conducting pre-tender exercises despite contractors already having gone through the same process to get on the frameworks; and***
- d. engage stakeholders, including councils and the construction industry, in developing and finalising the procurement framework in light of changes for Band B.***

Complete

In addition to the update provided in June on 8a and 8c, procurement frameworks are revised and retendered on a regular basis to ensure they are in line with good practice. Each Framework has a 'lead' local authority responsible for managing this

process along with communication with the industry. Framework members meet regularly to discuss issues and share good practice.

Procurement processes and value for money are tested by Value Wales colleagues at each stage of the business case scrutiny process. From recent engagement it appears that there are a number of reasons why some authorities may wish to undertake pre-tender exercises. The most common of which occurs when batching of schemes has been desired. This exercise ensures that there are no procurement challenges should this route be sought.

Market day events and conferences have been held with the construction industry and others to prepare them for Band B and MIM. Most recently, an information day held on 6th November saw 130 representatives attend to hear about the MIM Education Programme. Attendees included private sector contractors, funders and advisers, as well as local authority and college representatives.

Engagement with stakeholders, including local authorities, FEIs and the construction industry, will be ongoing throughout the delivery of Band B.

Recommendation Nine

The Welsh Government has now established more clearly than in the past what benefits it wants to achieve through the programme. It has established a discrete set of targets for local supply chain, apprenticeships and training and STEM engagement with schools.

It is also clear that a future priority will be to make more community use of the school buildings. To increase the wider benefits flowing from investment in the programme, the Welsh Government should:

- a. ensure that its targets for projects remain stretching over time;***
- b. promote good practice in achieving community benefits, for example through regularly updated the 21st Century Schools website, regional networks and industry events; and***
- c. review how the identified barriers to increasing community use of school buildings can be addressed in Band B of the programme.***

Complete

Programme benefits and targets will be regularly reviewed by the Programme Board and Programme Investment Panel alongside policy colleagues, such as Value Wales. Three Community Benefits seminars were held with partners in summer 2018. Good practice case-studies have been commissioned in order to share these on the website.

The Programme will be shortly re-launched with partners with a particular emphasis on wider community use. The Programme will be likely renamed as the 21st Century Schools and Colleges Programme with the strapline 'Community Spaces for Learning'.

Community benefits targets and community use of assets are tested by policy colleagues during the business case scrutiny process. Community benefit targets

are included in our grant award letters. Funding retentions are not released if targets are not met. In addition we are working with other portfolio areas to build wider community use of schools assets into the terms of funding for projects.

Recommendation Ten

The Welsh Government has put in place arrangements for technical support to the programme. It has strengthened the capacity of its own team through recruitment of experts in public-private finance. It is also setting up framework contracts to provide technical support to councils. Given the technical changes to the programme under Band B, the Welsh Government should, at the end of 2018, fully review whether the arrangements are working to:

- a. provide the Welsh Government with the technical expertise it needs to manage and oversee the programme; and***
- b. provide councils with the technical support they need to plan and deliver the programme locally.***

Complete

Resource for internal technical expertise has been agreed by the Minister and recruitment of an expanded MIM Programme Team is under way. The team will provide direct support to delivery partners. The team will also work with other potential partners, such as the Design Commission for Wales, to ensure that expert advice and support are available when required.

The capacity and make up of the team will be reviewed regularly by the Programme Board and Programme Investment Panel to ensure that it is meeting the needs of all those involved in the Programme.

Annex A

Band A progress by Local Authority – February 2019	Number of Projects	Full Business Case (FBC) Received	Business Justification Case (BJC) Received	FBC/BJC Approved	Under Construction	Complete
Anglesey	4	3		3	1	2
Blaenau Gwent	4	2	2	4	1	3
Bridgend	6	4	2	6		6
Caerphilly	6	3	2	6	1	3
Cardiff	24	10	14	24	1	23
Carmarthenshire	15	7	7	13	2	9
Ceredigion	4	2	2	4	2	2
Conwy	4	1	3	4	1	3
Denbighshire	8	5	3	8	1	5
Flintshire	4	4		4	1	3
Gwynedd	7	5	2	7	1	6
Merthyr Tydfil	2	2		2		1
Monmouthshire	3	2	1	3		3
Neath Port Talbot	6	6		6		6
Newport	6	2	4	6	2	4
Pembrokeshire	10	7	2	9	2	8
Powys	7	4	2	6	3	2
RCT	11	11		11	1	10
Swansea	9	5	4	9	1	7
Torfaen	9	6	3	9	2	7
Vale of Glamorgan	8	1	7	8		8
Wrexham	9	3	6	9	2	6
Further Education	9	5	4	9	3	6
	175	100	70	170	27	134