

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



Llywodraeth Cymru
Welsh Government

Our ref MA JM 1018 21

Lynne Neagle AM
Chair
Children, Young People and Education Committee
Cardiff CF99 1NA

15 March 2021

Dear Lynne,

I am writing to update you on the current proposals for collection of data and research plans to assess and monitor the effect of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Act 2020, including through the post implementation review reports required under the legislation.

I wrote to the Strategic Implementation Group for the legislation in December 2019, asking for their advice on the potential content of the post implementation review report. As you will remember, during the Children, Young People and Education Committee's Stage 2 scrutiny of the Bill, there were a series of non-Government amendments that sought to add detail of what should be included in a post implementation review report on the face of the Bill. I asked the Group for their assessment of the practicality of collecting the data outlined in these amendments for inclusion in the post implementation review. I have attached a copy of my letter dated 11 December 2019 for reference.

The Strategic Implementation Group obtained the advice of its Data Collection and Monitoring Task and Finish Group, which focuses on the areas covered in the unsuccessful amendments and additional areas where the task and finish group considered data should be collected. The chair of the Strategic Implementation Group has written to me with their advice on the data proposed to be collected to inform the post implementation review. I have attached this advice at Annex 1. Please note that it is possible that the proposed content may need to be revised as the implementation work progresses.

I hope that the Committee finds this information useful.

Yours sincerely,

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

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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.

Annex 1 – Proposed content of post implementation review report (December 2020)

This annex outlines the Strategic Implementation Group's view of the proposed content of the post implementation review report. This information is based on the detailed recommendations made by the Data Collection and Monitoring (DCM) task and finish group. The Strategic Implementation Group recognises that the Welsh Government's research plans will also contribute to the review of the effect of the law change. We understand that the post implementation review report will therefore also include:

- Survey results tracking awareness of the legislation and attitudes towards physical punishment of children; and
- Qualitative research with practitioners to understand the ways the change in law has affected frontline delivery.

Proposed Data Collection and Monitoring to inform the post implementation review

The work of the DCM task and finish group has to date focused on ways in which data can be collected and monitored to assess the impact on public services including;

- the 4 police forces in Wales
- Children's Social services in Wales
- the Crown Prosecution Service (CPS)
- Her Majesty's Courts and Tribunal Service (HMCTS)

The impact on organisations referring in to children's social services and/ or police, e.g., health and education sectors, has also been considered, and it has been concluded that relevant data can be captured through children's social services and police systems.

Collection of police and children's social services data has been prioritised to date, so that baseline data for the police and children's social services can be collected in advance of commencement of the Act. Baseline data is not relevant in relation to the CPS and HMCTS, as it will not be possible to collect data in advance of the law change: currently, if the defence of reasonable punishment applies, the CPS would not prosecute and the courts would not consider the case. It will only be possible to count cases where the defence would previously have applied following the law change.

Some of the data we propose to collect is described in the next section which covers the issues raised at stage 2 scrutiny and the ways in which we can collect data relating to those issues (or explaining why we cannot collect it); followed by details of some additional data we propose to collect to inform the post-implementation review.

Practicality of including in the post implementation review, the specific issues raised at stage 2 scrutiny of the legislation.

Point 1: Number of people prosecuted for corporal punishment of a child taking place in Wales.

The Data Collection and Monitoring task and finish group have been working with the CPS and the police in order to monitor both the numbers of people who are referred for prosecution by the police, as well as those who are prosecuted for corporal punishment of children in Wales. The Crown Prosecution Service has agreed to amend their Case Management System (CMS) across Wales to include a monitoring code in relation to these cases. Application of said monitoring code will form part of the training that is being

designed for internal staff, and once live should allow us to produce data in relation to volumes of cases received in the CPS.

Point 2: Numbers of children who are being looked after by a local authority in Wales.

The number of children who are being looked after by a local authority in Wales is currently routinely collected as part of the Children Receiving Care and Support Census. This includes those children who have been added to the child protection register as a result of physical abuse.

There are currently no plans to collect the numbers of children who become looked after specifically due to corporal punishment. This is due to the fact that the scope of this change in law covers minor acts of physical punishment, and does not aim to change the threshold at which children are taken into care. This means that there are already more serious incidents of physical abuse which do not necessarily result in children becoming looked after. Instead, the Post Implementation Review will include the numbers of assessments carried out by children's social services in Wales where physical punishment was a factor.

Point 3: Number of reports made to the police of corporal punishment of a child taking place in Wales and the number of such reports made by members of the public.

The Data Collection and Monitoring task and finish group has been working with all four police forces in Wales in order to determine the best way to count the number of reports that the police receive relating to corporal punishment. As the change in legislation does not create a new offence, it will not be possible to count the number of cases that directly result from the Act, as Home Office counting rules currently only count distinct offences. As such the group has agreed with representatives from the police that the best way to estimate cases of corporal punishment is for Welsh Government analysts to design an algorithm that reads each case file and tries to determine the number of cases which relate to parental physical punishment.

It is difficult to determine the source of reports to the police, however the group is looking into whether it is possible to determine which were reported via 999 or 101, and which were reported directly to the Public Protection Unit (PPU). This may help to filter out reports from professionals in children's social services and schools, who are more likely to report to the PPU, and give a proxy estimate for those reported by the public who are more likely to report by calling 101 or 999.

Due to the nature of this collection, it should be possible to analyse cases that have already been reported to the police, meaning that the group can consider an extensive baseline.

Point 4: Number of reports made to local authority social services departments in Wales of corporal punishment of a child taking place in Wales and the number of such reports made by members of the public.

The Data Collection and Monitoring group has been working with the Association of Directors of Social Services (ADSS) as well as analysts from each local authority's children's social services, who form the National Reporting Sub-group (NRSB), in order to determine the most effective way of counting reports made to children's social services departments regarding corporal punishment. The ADSS have agreed that the most efficient and robust method to collect this information would be to incorporate it into the new performance framework which is being implemented as part of the Social Services and Wellbeing Act. The co-chair of the DCM group met with the NRSB, who will be implementing the new collection and agreed the following two indicators will be collected:

The total number of contacts received during the year where:

- Physical punishment by a parent or carer was a factor.
- Physical punishment by a parent or carer was the *only* factor.

The total number of assessments completed during the year where:

- Physical punishment by a parent or carer was a factor.

- Physical punishment by a parent or carer was the *only* factor.

Children's social services departments routinely collect the sources of all referrals which are submitted to them already. As such, it should be possible using the new collection to determine how many reports have been made by the public and how many have been made by professionals.

This data was agreed to be collected for at least one year before the Act commences, and for at least five years following commencement. The performance framework implementation has been suspended, due to the current situation with COVID-19, however due to slippage being built into the project to account for any teething issues during the first twelve months, it is still likely that collection for at least one year before commencement will be achieved.

Point 5: Costs incurred by any devolved Welsh authority (as set out in the Government of Wales Act 2006) as a consequence of changes to the law.

The Data Collection and Monitoring group has discussed the possibility of costs incurred with representatives of devolved Welsh authorities and determined that they are unlikely to try to measure incurred costs such as employing new staff or providing new/additional training as a result of the change in law. Such costs would be difficult to measure and link directly with the legislation. The DCM group does however plan to measure the increase in workloads through its monitoring, and it will work with the Operations, Guidance and Training group to measure costs of training where possible. In addition, while outside the scope of data collection and monitoring being considered by the DCM group, we are considering whether it will be possible to assess the potential impact on workload through qualitative work with public service organisations after the law commences.

Point 6: Costs incurred by any devolved Welsh authority for the training of employees as a consequence of these changes to the law.

Representatives of devolved Welsh authorities on the Data Collection and Monitoring group do not anticipate measuring increases in costs due to this change in the law. The group has been informed that it is likely that in many cases existing routine training will be modified in order to incorporate the new law; as a result, it will be difficult to separate out the cost of training an employee specifically on the change to the law. Members of the DCM group will work with the Operations, Guidance and Training group in order to identify the points at which this information may be recorded, if possible, so that it is available for the Post Implementation Review.

Point 7: Number of persons employed by any devolved Welsh authority who have attended training as a consequence of these changes to the law.

Representatives of devolved Welsh authorities on the Data Collection and Monitoring group do not anticipate measuring increases in personnel attending training due to this change in the law. As described above, the group has been informed that in many cases it is likely that existing routine training will be modified in order to incorporate the new law, so there will not be additional training sessions to record. Members of the DCM group will work with the Operations, Guidance and Training group to identify any points at which this information may be recorded, if possible, so that it is available for the Post Implementation Review.

Additional data proposed to be collected

In addition to the points above, the Data Collection and Monitoring group is also considering the following points for the Post Implementation Review:

- Number of cases which are referred to the Public Protection Unit (PPU) by social services will be recorded by Dyfed Powys Police in order to further capture the overlap between police and social

services. This is more difficult in the 3 other Welsh police forces who operate using a MASH system.

- Numbers of cases referred to the CPS (regardless of whether the CPS chooses to prosecute). The group hopes to measure this in order to measure any increase in overall workload that CPS staff deal with.
- Numbers of people successfully convicted. The group aims to measure the numbers of people who are convicted due to the defence of reasonable punishment being removed
- Numbers of cases dealt with by Cafcass Cymru. The group would like to measure the impact on Cafcass Cymru in terms of the number of family law cases where physical punishment is a factor.



Ein cyf/Our ref MA/JM/5128/19

Karen Cornish
Chair
Strategic Implementation Group
Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

11 December 2019

Dear Karen,

I would like to thank the Strategic Implementation Group, and its Task and Finish Groups, for their detailed work on plans for implementation of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill, assuming it receives Royal Assent.

During the Children, Young People and Education Committee's Stage 2 scrutiny of the Bill, there were a series of Non-Government amendments that sought to add detail of what should be included in a post implementation review report on the face of the Bill. The amendments were not agreed.

I do not consider this level of detail is necessary on the face of the Bill, but I do understand the importance of ensuring a comprehensive post implementation review that reports on the effectiveness of the legislation and its impact on front line services.

I would appreciate the Strategic Implementation Group's views on the potential content of a post implementation review report, together with information on the practicality of including the effect the changes to the law by the abolition of the defence of reasonable punishment may have on the issues highlighted in the unsuccessful Stage 2 amendments to the Bill:

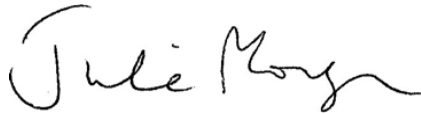
- Number of people prosecuted for corporal punishment of a child taking place in Wales;
- Numbers of children who are being looked after by a local authority in Wales;
- Number of reports made to the police of corporal punishment of a child taking place in Wales and the number of such reports made by members of the public;
- Number of reports made to local authority social services departments in Wales of corporal punishment of a child taking place in Wales and the number of such reports made by members of the public;
- Costs incurred by any devolved Welsh authority (as set out in the Government of Wales Act 2006¹) as a consequence of changes to the law;
- Costs incurred by any devolved Welsh authority for the training of employees as a consequence of these changes to the law; and

¹ <http://www.legislation.gov.uk/ukpga/2006/32/schedule/9A>

- Number of persons employed by any devolved Welsh authority who have attended training as a consequence of these changes to the law.

I am copying this letter to the Co-Chairs of the Data Collection and Monitoring Task and Finish Group and will also provide a copy of this letter to the Children, Young People and Education Committee for information.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Julie Morgan', written in a cursive style.

Julie Morgan AC/AM

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services