

12 April 2019

The Chair
National Assembly for Wales



Dear Lynne

Thank you for contacting the New Zealand Children's Commissioner regarding the Children (Abolition of Defence of Reasonable Punishment) Bill, currently being introduced in Wales. As you note, in 2007 New Zealand passed the Crimes (substituted section 59) Amendment Act, referred to as the "anti-smacking" bill.

Under the previous section 59, children's rights were sometimes poorly served by decisions in courts where adults were acquitted when they had been heavy handed in the use of physical force on children. The purpose of the legislation was to remove the defence of physical punishment and reduce violence against children. Our office and the Children's Commissioner advocated for the passing of the bill at the time and continue to support the purpose of this legislation almost 12 years later. It is an important signal of children's rights to safety and physical integrity. Today, the Act and expectation that children are not physically punished is a normal and accepted practice.

The Ministry of Health has just this week published the 2017/18 New Zealand Health Survey findings. New data related to physical punishment is that 4.5% of children's parents or primary caregivers reported using physical punishment on their child when they misbehaved in the 4 weeks prior to taking part in the survey. This has decreased from 10.4% in 2006/07. (<https://www.health.govt.nz/news-media/news-items/publication-new-zealand-health-surveys-2017-18-annual-results>)

I understand that New Zealand's experience has been misrepresented in some international jurisdictions, including that due to this legislation we now have had increase in parents being prosecuted, increase referral to social services and child removals from their families related to this issue, and increase in violent behaviour from children and young people. I would like to advise you that these reports are simply not true.

Our office is committed to sharing and supporting good parenting practice. The legislation protects children's rights and allow good parenting in New Zealand.

Kind regards

A handwritten signature in blue ink that reads "Donna Provoost". The signature is written in a cursive, flowing style.

Donna Provoost

Director – Strategy, Rights & Advice

Judge Andrew Becroft

Children's Commissioner New Zealand
By email

4 April 2019

Dear Commissioner,

Children (Abolition Of Defence Of Reasonable Punishment) (Wales) Bill

You may be aware that the Welsh Government has recently introduced a Bill to abolish the defence of reasonable punishment in Wales.

The National Assembly for Wales's cross-party [Children, Young People and Education Committee](#) is undertaking an inquiry into the general principles of the [Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Bill](#) ('the Bill'). More information about the Bill and the Committee's work on it is attached as an Annex to this letter.

Given the New Zealand Parliament's passing of the [Crimes \(Substituted Section 59\) Amendment Act 2007](#), the country's experience is cited in a number of places in the Welsh Bill's accompanying [Explanatory Memorandum](#). As such, the Committee is keen to hear from you.

The Committee would be grateful to know **your views on this legislative proposal, particularly in the context of the Explanatory Memorandum referring to New Zealand's experience**. Members would also welcome any other comments you may wish to share via the Committee's [online consultation](#). The closing date for comments is **Tuesday 14 May 2019**.

Any insight into the proposed legislation and its implementation would be very gratefully received. The Clerk of the Committee, Llinos Madeley, would be happy to discuss any questions you have. She can be contacted on seneddcype@assembly.wales.

You can find further details about how we will use your information at www.assembly.wales/InquiryPrivacy. Please ensure that you have considered these details carefully before submitting information to the Committee.

Yours sincerely,



Lynne Neagle AC / AM

Cadeirydd / Chair



The Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill

The purpose of the Bill is to abolish 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.

The defence currently applies in respect of both the criminal and civil law. Under the criminal law, it applies in respect of the common law offences of assault and battery; and under civil law, in respect of the tort of trespass against the person.

The Bill is intended to support children's rights by prohibiting the use of physical punishment, through removal of this defence.

The intended effect of the Bill, together with an awareness-raising campaign and support for parents, is to bring about a further reduction in the use and tolerance of the physical punishment of children in Wales.

A [Summary of the Bill](#) is available.

The Committee's work

The [Children, Young People and Education Committee](#) is a cross-party committee of the National Assembly for Wales comprised of 8 Assembly Members. It is responsible for scrutinising the Welsh Government's policy, legislation and finances as they relate to children, young people and education in Wales.

From March to July 2019, the Committee will be scrutinising the general principles of the [Children \(Abolition of Defence of Reasonable Punishment\) \(Wales\) Bill](#). You can read more about [how legislation is scrutinised](#) on the Assembly's website. To help inform the report the Committee will produce, Members would like to hear the views of organisations and individuals about the Bill, particularly on the following **terms of reference**:

- the general principles of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill and whether there is a need for legislation to deliver the Bill's stated policy objectives;
- any potential barriers to the implementation of the provisions and whether the Bill takes account of them;
- whether there are any unintended consequences arising from the Bill;



- the financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum);
- the appropriateness of the power in the Bill for Welsh Ministers to make subordinate legislation (as set out in Part 1: Chapter 5 of the Explanatory Memorandum).

