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

About you

Individual

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 as long overdue. I believe removing the defence of reasonable punishment in law in Wales will help to safeguard children from assault and is in line with the Welsh Government’s commitment to children’s rights. Removing the ‘reasonable punishment’ defence acknowledges children’s status in society as holders of human rights and is consistent with the ‘due regard’ duty in the rights of Children and Young Persons (Wales) Measure 2011. International human rights bodies, including the UN Committee on the Rights of the Child, have stated clearly that children should have the same legal right to protection from assault as adults and governments must remove any legal defences that allow them to be physically punished.

Currently children are not fully protected by law from assault while adults are. This legal anomaly means that the smallest and most vulnerable members of Welsh society have less protection than adults. Abolishing the defence is long overdue and will provide support to families and professionals to focus on positive parenting methods which are effective and in line with respecting the rights of children to be nurtured and protected.

Serious physical abuse of a child invariably has physical punishment as a factor. Not everyone knows when to stop and physical punishment often happens at a time of heightened
emotion. Since there are better ways to manage a child’s behaviour and to teach them right from wrong, it’s best not to bring hitting or smacking a child into parenting at all.

With the law as it stands it’s difficult for professionals working with families who see worrying parenting behaviour to give a clear message. Delaying in offering guidance or support can put children at risk if physical punishment escalates or if something more serious is already happening.

Furthermore, there is extensive research showing that physical punishment is ineffective in managing the behaviour of children, while children are more likely to thrive and develop positive behaviours in a nurturing environment with good role models.

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 1000 words)

I believe that the change in the law is necessary and long overdue. The current law is not protecting the most vulnerable children who are at risk, and leaves a lack of clarity allowing punishment as a defence in cases of assault. In Wales where children’s rights has formed the basis of policy, it is contradictory to allow the current defence to remain. Not only is it confusing for parents and professionals, but it also undermines the values of respecting each other’s rights, for children and young people. A simple and unequivocal ban provides the necessary clarity that is in line with implementation of the UNCRC in Wales.

Experience from the 54 states that have already changed the law in this area shows that public education alone does not stop the physical punishment of children. Governments often lead on public health issues to address key issues such as smoking and using seat belts in cars, and we believe that the new law is needed to continue to improve the lives of children. Physical punishment has the potential for harm and no benefits.

While the current law in Wales condones physical punishment, it is impossible to promote the message that it is wrong and unacceptable; the law should go hand in hand with positive parenting campaigns.

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 1000 words)

I don’t believe that there will be any real barriers to implementing the Bill. The Welsh Government has done a lot of background work and this is clear in the Bill’s Explanatory Memorandum.
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 1000 words)

There are some things that might need to be addressed to make implementation easier. These might include:

• A well-resourced public information strategy, using face-to-face contact and universal services, not just targeted programmes such as Flying Start and Families First funding.

• Enough resources for positive parenting programmes

• Making sure that professionals working with families are prepared for the change, know what to say and how to act.

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 1000 words)

The Welsh Government has given a lot of attention to considering all the possible consequences of changing the law.

However, there needs to be a way of monitoring implementation and working with organisations and public bodies before the law comes into effect as well as in the early years after implementation.

Some families and communities may find it harder to reach the information and support they require and Welsh Government needs to make sure that they are fully informed.

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 1000 words)

After changing the law far fewer children will experience any physical punishment because their parents will be guided by the law. It will also mean that people working with families can give a clearer message or intervene earlier. This will mean spending less on more costly interventions later as well as savings in the huge cost of providing services that children who have experienced ACEs such as physical abuse might need longer terms – into adulthood even. Figures obtained from the Early Intervention Foundation by the NSPCC found that the overall financial cost of late intervention with children and young people to Wales was £1.15bn in 2014/15.
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)*

Please note the following, sent to myself at Children in Wales from Emeritus Professor Staffan Janson in Sweden:

The positive impact of the corporal punishment ban in Sweden:

Sweden was the first country in the world to introduce a corporal punishment ban in the families in 1979. Similar laws in the other Scandinavian countries soon followed, and during the last ten years, there has been an explosive introduction of bans in more than 50 countries all over the world. Meanwhile well-performed scientific studies have confirmed that corporal punishment of children have similar detrimental effects on children’s health and development as physical abuse. In 1979, this was not known for sure. The ban was rather based on experiences of severe child abuse cases in the 1960s and a long-standing discussion about child rights. The public and political resistance against the ban successively decreased during the 1970s. The Swedish Parliament voted almost unanimously in favor of the proposed ban (259 in favor, six against and three abstentions) to amend the Parental Code to include an explicit ban on all forms of physical punishment or other abusive treatment of children.

We have constructed figures (on attitudes towards corporal punishment) from successive national parental surveys using the same methodology – the Conflict Tactic Scale.

While more than 50 % of Swedish parents were in favor of corporal punishment in the 1960s, only a few percent agree with this view at the current time. In practice, we can see that parents without severe mental disorders looks upon corporal punishment as a disgusting behavior. The same tremendous change has happened concerning behavior. While almost all parents spanked his or her child at least once during the last year in the 1960s, this is very rare nowadays. We have even been able to show, that immigrant families who are well integrated in the Swedish society acquire the same attitudes and behavior towards their children, even if they come from cultures, where physical punishments of children are regular parental behavior.


Staffan Janson, Professor of Pediatrics, Sweden