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

<table>
<thead>
<tr>
<th>Tystiolaeth i’r Pwyllgor Plant, Pobl Ifanc ac Addysg ar gyfer craffu Cyfnod 1 Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)</th>
<th>Evidence submitted to the Children, Young People and Education Committee for Stage 1 scrutiny of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill</th>
</tr>
</thead>
<tbody>
<tr>
<td>CADRP-552</td>
<td>CADRP-552</td>
</tr>
</tbody>
</table>

**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?

— No

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 have a right to expect that the state should not intervene in family life unnecessarily. Unless there are clear reasons to intervene – i.e. abuse, parents should be able to bring up their own children as they see fit.

Children’s rights to protection against violence are fully protected by existing laws. In the UK government review of Section 58 of the Children Act 2004 (Oct 2007,CM 7232) the conclusions are clear. It also clearly sets out in paragraph 16 that, as a result of changes enacted in 2004, “the defence of reasonable chastisement is no longer available for any act capable of breaching a child’s Article 3 rights”. This defence does not adversely affect a child’s rights, and removing it will not improve them.

Children’s rights include the reasonable expectation that the government will promote child welfare in a holistic way. Paragraph 50 of the same report states that “Our drive to promote child welfare will continue. And part of that requires us to have a system which acts in the child’s best interests – one where parents are not unnecessarily criminalised” These proposals fail to meet that expectation and are therefore not in a child’s best interests.

The charging standard based on existing law states that “for any injury to a child caused by a parent or person acting in loco parentis which amounts to more than a temporary reddening
of the skin, and where the injury is more than transient and trifling, the defence of reasonable punishment is not available’. It is very poor use of public money to spend £2.0m to £3.3m (NPV) annually to attempt to avoid something transient and trifling.

It is important to note that of the 44% of parents reported as saying they “may smack in certain circumstances”, 40% do so ‘if nothing else works’ (the attitudes of Parents towards Managing young children’s behaviour: revised report) The report is clear, the responses put smacking within the context of other techniques. If this legislation was passed, what would those parents do then? Surely, many parents would move from positive parenting techniques to either a permissive style of parenting or to an authoritarian style. These, the report makes clear, are likely to lead to poorer outcomes for children.

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)

No.

For the reasons outlined above, I am firmly convinced that the legislation proposed will deliver the opposite effect of that which is intended, at a great cost to both government, children and their parents.

Para 4.11 of the Explanatory memorandum states that 'police and CPS agree that a proportionate response in the best interests of the child is essential'. This kind of proportionate response is exactly the response embodied within the existing legislation. The fact that it works is supported by the very low numbers of times it has been tested in court, referred to in 3.11 to 3.27

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)

Yes.

Geographically, the Islands of New Zealand are very different to Wales which has a large land-border with England. Communication to the large number of families that visit from England is likely either to be ineffective, or act as a deterrent to tourism. This will have a negative impact on business.
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)*

No.

3 Unintended consequences

3.1 Do you think there are 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)*

Yes. These include (but are not limited to) the following:

1. Impact on good, loving parents

The explanatory memorandum would lead the reader to believe that physical punishment is mostly associated with certain groups of parents (e.g. younger parents and those with poor maternal physical and mental health). I do not believe this is the case for moderate physical punishment. I therefore expect that an unintended consequence would be the impact on many good, loving and careful parents who choose to use moderate physical punishment as part of a loving, authoritative and person-centred approach to parenting. The actions of these parents would now be a criminal offense. The terminology of associating this with abusing parenting by linking it to adverse childhood experiences (ACEs) looks like a desperate attempt to justify outlawing moderate behaviour which is clearly done in a context of a loving parent seeking the best interests of a child.

2. Undermining Positive Parenting

Many confident, positive parents, including those who rarely or never smack, may feel undermined by these proposals. The importance of parents feeling confident in handling challenging behaviour from their children should not be under-estimated. Legislation that undermines the confidence of parents will damage their ability to parent, and may result in poorer outcomes for children. This is not what Wales needs.

3. Fear of Prosecution

There exists in many families a caution about involvement with social services. It is my belief that a fear of possible prosecution will tend to increase the reluctance to seek or receive help even when necessary. These proposals do nothing to build trust, collaboration or cooperation. I therefore fear they would be instrumental in reducing the actual protection afforded to children.
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)

As stated above, it is very poor use of public money to spend £2.0m to £3.3m (NPV) annually to attempt to avoid something trifling.

In addition, I would expect the actual cost though the negative impact on existing assertive parenting to introduce additional strain into existing services and result in poorer, not better outcomes for young people.

The costs of the estimated 274 additional investigations annually, as well as the unquantified effects these would have on the families, their jobs and other services are too high a price to pay for this unnecessary legislation.

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)

Having considered the proposals, the rationale and the desired outcomes, it is my clear opinion as a parent, and as someone working within social services, that based on the detailed points set out above that they would be:

• BAD for children

• BAD for families

• BAD for practitioners, and

• BAD for the well-being of future generations.

I instead urge a more honest approach be adopted as follows:

• Support families in need rather than threaten them with legal sanctions for reasonable actions that are not abusive

• Be clear and open about what the existing law does and does not allow

• Do not overload already busy social services with additional workload – allow them to give that time to cases of real need
• Acknowledge that parents are responsible for raising children, and that the role of agencies is to support them when needed: empower parents.