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

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<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>
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About you

Organisation: Royal College of Psychiatrists 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 Royal College of Psychiatrists Wales welcomes the opportunity to respond to this important consultation. Wales has the opportunity to ensure the rights of children are met by removing the defence of ‘reasonable punishment’. The use of physical punishment on children has been heavily debated over recent years as more evidence is uncovered highlighting the damaging effects that such form of ‘parenting’ has on the child and indeed on their development into adulthood. The Royal College of Psychiatrists Wales, Assembly Members, Cabinet Members and most Welsh Political Parties have long supported an outright ban on physical punishment of children and young people. We believe this vital piece of legislation should be passed for the following reasons:


• Article 19

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
Article 37 states Parties shall ensure that:

No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.

Section 58 of the Children Act 2004 removes the defence of lawful chastisement for parents or adults acting in loco parentis where the accused person is charged with ABH, Wounding, GBH or Child Cruelty. However lawful chastisement defence remains available for parents and adults acting in loco parentis charged with common assault under Sec 39 of the Criminal Justice Act. The Crown Prosecution Service’s charging standards state that if an injury amounts to no more than reddening of the skin or is of a transient and trifling nature, a charge of common assault may be laid against the defendant for whom the lawful chastisement defence remains available.

The current law in the UK is ambiguous and confusing to parents and guardians of children, which allows them to physically punish a child. The law as it stands continues to allow for the defence of ‘reasonable punishment’ not just of the child’s parents, but by anyone who has charge of a child (including nannies, teachers, grandparents, etc) unless prohibited from using physical punishment by other legislation. The actions of ‘reasonable punishment’ are determined on a case-by-case basis and only if a case of child abuse goes to court. It is then the prosecution’s duty to prove that the action/s in question are unreasonable, and for the jury to consider the nature and force of the punishment. These laws are harmful for children, confusing for parents and profoundly inhibiting for child protection professionals. Child protection can only be undertaken within a strong legal framework and the only law that will secure children’s safety is one that unambiguously prohibits all forms of physical punishment. Parents have no set guidelines as to how they can and cannot punish their child because as the law currently stands, there is no clarity as to what level of punishment is and is not acceptable. This can be avoided altogether by placing a ban on all forms of parental corporal punishment.

All studies around mental health in childhood have found that physical punishment (such as pushing, grabbing, shoving, spanking, slapping, hitting) is significantly associated with behaviour disorders, anxiety disorders, depression and hopelessness, with later studies finding associations with suicide attempts, low self-esteem, hostility and emotional instability. There is also significant evidence that physical childhood punishment is associated with increases in aggressive behaviours, including delinquent, anti-social and even criminal behaviour. In addition to having an immediate and devastating effect on young people’s lives, maltreatment is responsible for a up to a quarter of the burden of mental disorders such as depression, anxiety, eating disorders and self-harm, with later studies finding associations with suicide attempts, low self-esteem, hostility and emotional instability. This is also consistent with research which has found that experience of physical punishment is linked to risk taking behaviours including smoking, alcohol and/or drug consumption, and fighting.
Physical punishment can also affect schooling, leading to a range of issues in later life such as poorer employment prospects, linked with highly significant increases in aggressive behaviours, including delinquent, anti-social and even criminal behaviour.

Physical punishment has the propensity to escalate over time and the effectiveness in controlling the child’s behaviour decreases as he/she becomes impervious to the abuse, which often encourages parents to then increase the intensity of the punishment, often causing difficulties in the child / parent relationship. Research by Save the Children and the National Children’s Bureau in 1999 took the views of 70 children aged 4 – 7yrs on physical punishment and found that most children believed this form of discipline reinforced violent behaviour and did not foster close relationships with their parents. This report also concluded that other forms of parenting are much more effective and safer, such as sending a child to their room or denying them pocket money, demonstrating that parents would actually benefit from using positive non-aggressive forms of parental reprehension. Although physical punishment may result in immediate compliance, this research found it eroded the relationship between the child and the parent (many viewed their parents smacking them with other forms of hitting and similar to bullying). In 2012, the authors of a comprehensive analysis of two decades of research into the physical punishment of children in Canada said that a trial involving more than 500 families trained to use non-physical punishments found that problem behaviour actually declined.

Professor Mark Bellis, Director of Policy, Research and Development at Public Health Wales, co-authored the report Childhood Happiness and Violence: A Retrospective Study of Their Impacts on Adult Well-being. The research shows that being exposed to adverse experiences in childhood can have a profoundly negative effect on an individual’s physical and mental development, which ultimately affects behavioural choices during adolescence and adulthood. In a statement, referencing also a WHO report on the significant number of children suffering from maltreatment in Europe, he said:

“As well as having an immediate and devastating effect on young people’s lives, child maltreatment may also be responsible for a quarter of the burden of mental disorders such as depression, anxiety, eating disorders and self-harm. It affects schooling, leading to a range of issues in later life such as poorer employment prospects.”

This report also highlights the financial and economic benefits of tackling childhood maltreatment.

In 2002, a landmark meta-analysis of 88 studies was published that examined the association between lawful corporal punishment by parents and experiences / behaviours. All of the 13 mental health related studies of the meta-analysis found an association between corporal punishment and a decrease in the quality of the parent – child relationship. Later studies have found that corporal punishment is associated with poor attachment by young infants to their mothers and with poor family relationships in adolescence and young adulthood. All studies
in the meta-analysis relating to mental health in childhood found that corporal punishment is significantly associated with behaviour disorders, anxiety disorders, depressions and hopelessness. Later studies have found associations with suicide attempts, low self-esteem, hostility and emotional instability. This is consistent with research which has found that experience of physical punishment is linked to risk-taking behaviours including smoking, alcohol and/or drug consumption and fighting. These associations can be traced into adulthood. All 88 studies on mental health in adulthood in the meta-analysis found an association between corporal punishment and poor mental health, including low self-esteem, depression, alcoholism, self-harm and suicidal tendencies.

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)

Legislation has been successfully passed and implemented in 56 countries worldwide. Sweden was the first country to explicitly prohibit all forms of physical punishment, in 1979. The Swedish government has undertaken regular independent research to discover the impact of the ban, and in 2009 the found overwhelming confirmation that it was achieving positive results, as summarised in their publication ‘Never Violence – Thirty Years on from Sweden’s Abolition of Corporal Punishment’.

There is support in Wales for this Bill to be passed. A recent survey carried out found that 81% of parents across Wales felt it unnecessary to physically punish a child, a 10% increase from 2015. The use of physical punishment on children and young people has been heavily debated over recent years as more evidence is uncovered highlighting the damaging effects on development into adulthood. If successful, this legislation will form part of a wide range of services being put together for children, young people and their parents, offered by a cross-section of support agencies including the NHS, Education, Social Services, Flying Start, Families First (this list is not exhaustive). The legislation will be accompanied by an awareness-raising campaign throughout Wales, with the aim of eradicating the tolerance of physical punishment of children and young people across the country. The Royal College of Psychiatrists Wales welcomes this legislation and will actively support all the agencies who are working to ensure the health and wellbeing of children and young people is treated with the utmost importance is deserves.

If this Bill is successfully carried, it will mean that in Wales, children will have the same legal protection as adults, and it will an offence to physically punish them. The current legal defence of ‘reasonable punishment’ in place within law that can be used by any parent accused of battery or assault against a child in Wales will no longer be valid if this Bill is passed, and that no-one is legally allowed to physically punish a child.
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)

It’s crucial that there is an explicit public understanding of what the bill is trying to achieve so consideration must be given to possible areas of confusion and ambiguity such as ‘potentially lifesaving contact’ in the debate and development of this legislation.

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)

We are satisfied that this message has been identified at debate and during development of the Bill, we entrust that clarity will be given in public messaging.

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)

no additional information

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)

no additional information

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)

There are currently over 100 psychiatrists and trainees working in Child and Adolescent Mental Health Services (CAMHS) across Wales. All too often they find themselves working with children who are subjected to physical punishment or abuse and are subsequently using mental health services as a result. Our General Adult psychiatrists also treat many patients who suffer from mental ill-health that has been brought on by traumatic childhood
experiences and research has shown that being exposed to adverse experiences in childhood can have a profoundly negative effect on an individual’s physical and mental development.

The Royal College of Psychiatrists Wales has always been encouraged that in the past Welsh Government has promised to fight for a ban on childhood physical punishment, and it’s extremely reassuring to see they are in fact delivering on their promise. Physical punishment of children and young people is not acceptable - The Royal College of Psychiatrists Wales is hopeful the Welsh Government’s bid to pass the ‘Children - Abolition of Defence of Reasonable Punishment (Wales) Bill is successful.