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Llywodraeth Cymru
Welsh Government

Ein cyf: MA-L/JM/0664/19

Llyr Gruffydd AM
Chair
Finance Committee

13 September 2019

Dear Llyr,

I would like to thank the Finance Committee for their scrutiny of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill during Stage 1 and for the report which was published on 2 August 2019.

I have set out responses to the Committee's recommendations at Annex A. The Children, Young People and Education and Constitutional and Legislative Affairs Committees also considered the Bill at Stage 1 and made recommendations about its content. I have tried to strike a balance between all three Committee Reports, but there have inevitably been occasions when I have had to fall on one side rather than the other.

It has not been possible for me to accept all of the Finance Committee's recommendations in full. However, I have carried the principles and underpinning reasoning through as far as possible.

I hope this letter is helpful in setting out responses to the Committee's Report. I will also be writing to the Chairs of the Children, Young People and Education Committee and the Constitutional and Legislative Affairs Committee with respect to their Stage 1 Reports, and will copy the letters to all three Committee Chairs.

I look forward to continuing to work with Members as the Bill progresses through the Assembly process.

Yours sincerely

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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 A: Response to Finance Committee Stage 1 Report Conclusions and Recommendations

Conclusion 1

Throughout this report, the Committee has recommended that further financial information is provided. Should there be significant changes to the Regulatory Impact Assessment (RIA), the Committee may consider those changes in more detail.

I note the Committee's conclusion.

Recommendation 1

The Committee notes the public awareness campaign is costed within the RIA. However, as this campaign will be an integral element of the Bill's implementation, the Committee recommends that a duty to carry out a public awareness campaign should be included on the face of the Bill.

I **accept** this recommendation.

I am proposing to bring forward an amendment to effect this recommendation. I have already given an undertaking to this Committee during our first session to raise awareness in relation to the change in the law.

As set out in the Explanatory Memorandum, I have given my approval for a high intensity campaign, which would amount to around £2.2 million over approximately 6 years. This includes significant awareness raising between Royal Assent and commencement, to achieve the highest possible awareness levels before the law comes into force. This campaign would continue for around four years after commencement, to maintain a high level of awareness.

I note that there is also a recommendation from the Children, Young People and Education Committee relating to a duty to raise awareness.

Recommendation 2

The Committee recommends that the Welsh Government publish further details of its awareness raising campaign. In particular, how it intends to reach relevant individuals.

I **accept** this recommendation.

I will publish further detail of our communications plans. The plans for the awareness raising campaign have continued to develop since the Explanatory Memorandum was published in March 2019. We will provide an update on those developments through revision of the Explanatory Memorandum at the end of Stage 2.

Recommendation 3

The Committee recommends that the outcome of the mapping exercise undertaken by the Implementation Group is included in a revised RIA after Stage 2.

I **accept the principle** of this recommendation.

I will be happy to share the conclusions of the mapping of parenting support with the Committee in due course.

While we anticipate the mapping exercise will be completed by the end of September 2019, it will take time to conduct a comprehensive review of the findings and to consider any potential implications. The Parenting Expert Advisory Group will consider the findings when it meets on 17 October, and will be asked, based on their knowledge and experience, to make recommendations on next steps. When we have considered these recommendations we will write with an update to the Committee. This will fall outside of the timeframe of your recommendation.

I note that the Children, Young People and Education Committee also included a recommendation in relation to this.

Recommendation 4

The Committee recommends that the Welsh Government prioritises establishing a baseline cost for referrals to social services and this should be included in a revised RIA.

Conclusion 2. Due to the lack of information on referrals to social services, the Committee is unable to draw a conclusion as to the value for money of this aspect of implementation. The Committee is also concerned that as the RIA stands, it does not provide stakeholders, such as local authorities, with a full indication of the potential resources the Bill may require.

I **accept** this recommendation and note the Committee's conclusion.

I have already prioritised this. Welsh Government officials are working with a small number of local authorities to try to obtain an estimate of numbers of current referrals to social services, based on the methodology used by the police. The conclusion of this work will be included in the revised RIA.

A unit cost per referral to social services, established in consultation with local authorities and broken down for the different possible elements of the referral up to the point of enquiries under section 47 of the Children Act 1989, is included in the Explanatory Memorandum (table at paragraph 8.38). Provided it is possible to obtain a reasonably reliable estimate of numbers through the method outlined above, it will therefore be possible to use that estimate and the unit cost information to provide an estimate of the current costs of referrals to social services.

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The Data Collection and Monitoring task and finish group, operating under the Implementation Group, is working to develop an approach to collect data on relevant referrals to social services, so that data can be collected prior to commencement to provide a more robust baseline, and following commencement to monitor the impact.

Evidence from key stakeholders to the Children, Young People and Education Committee suggested they were not anticipating significant additional referrals following the removal of the defence of reasonable punishment.¹

Recommendation 5

The Committee recommends that further work is undertaken on the cost implications of diversion schemes and this information is included in a revised RIA.

I **accept** this recommendation.

We are currently undertaking work on the cost implications of diversion schemes. We have a specific task and finish group which will be taking this detailed work forward overseen by the Strategic Implementation Group. This information will be included in the revised RIA.

Recommendation 6

The Committee recommends the Welsh Government considers how to ensure there is a clear link between estimated referrals to the police and prosecutions for offences that previously would have been covered by the defence of reasonable punishment. This information should be included in a revised RIA.

I **accept** the recommendation that further work should be undertaken on this issue.

We accept that the estimates provided in the RIA for the police data on the one hand, and the prosecutions on the other, were calculated in different ways. We understand the Committee's preference for a set of data which shows a clear link between the numbers of cases referred to the police, and the number of resulting prosecutions.

However, the limitations of the data at our disposal have to be borne in mind and it is not appropriate to guarantee that it will be possible to find a way of making that link clear. If this is the case, we will provide a full explanation of our work in the revised RIA.

¹ Sally Jenkins, ADSS paragraph 60 <http://record.assembly.wales/Committee/5502>
Matt Jukes, South Wales Police paragraph 52 <http://record.assembly.wales/Committee/5518#A50788>
Jane Randall, National Independent Safeguarding Board paragraph 269
<http://record.assembly.wales/Committee/5503#A50936>
Dr Rowena Christmas, RCGP paragraph 436 <http://record.assembly.wales/Committee/5503#A50937>

Recommendation 7

The Committee recommends that the Welsh Government provides a full assessment of any costs to updating guidance and training and this information is included in a revised RIA.

Conclusion 3. The Welsh Government has not offered any costings in terms of guidance and training. The Committee cannot therefore draw a conclusion as to value for money of those activities, or whether the resources associated with those activities seem adequate and reasonable to deliver the aspirations of the legislation.

I **accept** the principle of this recommendation and note the Committee's conclusion.

I note the Committee's acknowledgement that updating guidance to take account of new legislation could be part of a staff member's role² and that there may not be a requirement for additional training³.

Welsh Government officials are currently undertaking further work to assess, as far as is practically possible, the costs to stakeholders to update their guidance documents and to determine whether there are likely to be any additional training costs incurred. We will provide our best estimate of the costs in the revised RIA.

Recommendation 8

The Committee recommends that the Welsh Government publishes a workplan for the Implementation Group and specifically highlights any areas relating to resourcing activities associated with the Bill.

Conclusion 4. As has been noted at multiple points in the report, the Committee is disappointed that the work of the Implementation Group is taking place after the Committee conducts its scrutiny. The Committee will be keen to understand how that Group develops its plans for implementation and whether this provides detail to areas on which the Committee has been unable to draw a conclusion in its scrutiny.

Conclusion 5. The Committee is disappointed that the activities and resourcing of the Implementation Group have not been included in the RIA and is surprised that the Welsh Government did not see it as a priority to establish this Group prior to introducing the Bill, in order to fully understand how the objectives of the Bill would be delivered.

I **accept** this recommendation and note the Committee's conclusions.

² Paragraph 67 Finance Committee Stage 1 Report

³ Paragraph 68 Finance Committee Stage 1 Report

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The work of the Implementation Group is progressing, together with its task and finish groups. The Group is a way of bringing together all those who have an interest in the practical implementation of the Bill. Welsh Government officials provide the Group secretariat and other practical support at minimal cost.

We propose publishing a high level work plan, separately from the revised RIA, as the work of the Implementation Group will continue should the Bill achieve Royal Assent. After that point there will not be an expectation to update the RIA any further. It makes more practical sense, therefore, for updates on the work of the Implementation Group to be published either on the Welsh Government website, or be included in letters to the relevant committees (Finance Committee and Children, Young People and Education Committee). It is anticipated the high level work plan will be published following the September meeting of the Implementation Group.

Recommendation 9

The Committee recommends the Welsh Government analyse its post implementation review strategy, with consideration given to the resourcing of the activities it intends to undertake. This information should be included in a revised RIA.

I **accept** this recommendation.

We are giving further consideration to our post implementation review strategy. An update will be provided in the revised RIA, giving further information about the strategy for evaluation and data collection and monitoring.