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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA/JM/5235/19

Lynne Neagle AM
Chair
Children, Young People and Education Committee

Llŷr Gruffydd AM
Chair
Finance Committee

Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee

7 January 2020

Dear Chairs,

I am writing to inform you that an updated Explanatory Memorandum (EM) was laid before the National Assembly today, in respect of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill.

The EM reflects the changes made to the Bill by the Children, Young People and Education (CYPE) Committee during the Stage 2 proceedings and also provides new or additional data and evidence that has become available since the publication of the original EM at introduction of the Bill in March 2019.

Stage 2 of the legislative process took place between 18 September and 24 October 2019. Government amendments in relation to a duty to raise awareness and to undertake a post implementation review – both recommendations from Stage 1 scrutiny Committee Reports – were agreed. Also agreed was the Government amendment to provide certainty in relation to commencement of the Bill's core provision: the removal of the defence of reasonable punishment.

There have been developments in relation to the availability of baseline data for social services. I have written separately on this issue to the Chair of the Children, Young People and Education Committee and the Finance Committee.

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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.

The main material changes to note in the updated EM are:

Chapter 2 (Legislative Competence)

This section has been updated to provide further information on the Welsh Government's analysis of the Bill's compatibility with Article 8 and 9 of convention rights and European Union law (paragraph 2.3).

Chapter 3 (Policy objective and purpose and intended effect of the legislation)

- The section 'Context' has been updated to reflect the latest legislative developments in relation to the Bill (paragraphs 3.8 and 3.9).
- In the section 'Purpose and intended effect of the Bill' information is provided on the research commissioned by the Welsh Government on attitudes to physical punishment which was published after the legislation was introduced in March. The Committee was informed about this research when it was published in June. To take account of this research we have also updated the following sections of the Explanatory memorandum –paragraphs xi and xii; 3.32, 3.56 - 3.59.
- The section, 'Supporting the implementation of the Bill' has been updated to reflect developments to the delivery of parenting support which includes updating our Parenting. Give it time campaign, which we intend to expand to cover a wider age range of parents (paragraph 3.70); and delivery of the Healthy Child Wales programme and associated resources (paragraph 3.72, 3.73 and 3.74).

Chapter 4 (Consultation)

- 'Support for parents' - an update on our Parenting Expert Group (PEAG) has been provided. PEG will work with the Welsh Government to consider the results of the mapping exercise we carried out to examine the extent of parenting support currently provided across Wales (paragraph 4.8).
- 'Impact on public bodies' and 'Guidance/ training to support frontline professionals' – information is provided in these sections on the Strategic Implementation Group and associated task and finish groups (paragraph 4.13 - 4.18)
- Paragraph 4.15 reflects the changes to commencement arrangements made to the Bill by the Children, Young People and Education Committee during the Stage 2 proceedings.

Chapter 5 (Power to make subordinate legislation)

The table has been updated to reflect the power in the Bill as amended after Stage 2 proceedings.

Chapter 6: Summary of RIA

This section has been updated with revised figures for administrative costs for organisations to update guidance; out of court disposals, post implementation review (surveys of awareness and attitudes) and awareness raising.

In response to recommendation 20 of the CYPE Committee the section 'Unquantified costs' has been updated with further information where a best estimate of such costs has now been provided or to explain why we have been unable to do this.

The section 'Key evidence, assumptions and uncertainties' has been updated to provide information on the research commissioned by the Welsh Government on attitudes to physical punishment which was published in June.

Chapter 8: Costs and benefits

The following sections have been updated:

- 'Introduction to Chapters 8 and 9' – paragraph 8.2 notifies the reader that the EM has been updated to take account of changes since the Bill was introduced. Paragraph 8.9 provides information on the Strategic Implementation Group and associated task and finish groups
- 'Option 1: Do nothing' – costs for Welsh Government programmes have been updated
- 'Option 2: Legislate to remove the defence of reasonable punishment'
 - Paragraph 8.22 provides an update on the order making power contained in the Bill.
 - Welsh Government costs for awareness raising have been updated to take account of the Deputy Minister for Health and Social Services' commitment to a high intensity communications and awareness raising campaign (Paragraph 8.28 – 8.32).
 - In response to recommendation 10 of the CYPE Committee, a new section 'Awareness Raising with Children', provides information on the Welsh Government's plans, and associated costs, for awareness raising with children.
 - 'A note on using New Zealand data to give an indication of potential impact of the legislation on social services, the police and justice system' – this has been updated to provide further information on differences between New Zealand and Wales (paragraph 8.44).
 - 'Local Authorities – Social Services' – In response to recommendation 4 of the Finance Committee and recommendation 6 of the CYPE Committee Stage 1 reports an update has been provided on attempts to provide accurate data for a baseline of referrals to social services and an estimate of the scale of increase in referrals following commencement of the legislation.
 - In response to recommendation 5 of the Finance Committee Stage 1 report a new section 'Out of Court Disposals' has been added to the RIA to provide a best estimate of costs associated with a diversion scheme.
 - In response to recommendation 6 of the Finance Committee the section 'Ministry of Justice - Her Majesty's Courts and Tribunals Service' provides an

analysis of whether a link can be established between estimated referrals to the police and prosecutions for offences that previously would have been covered by the defence of reasonable punishment (paragraphs 8.50- 8.58).

- A new section 'Supporting implementation' has been added to provide costs associated with implementation. In response to recommendation 9 of the Finance Committee this includes the costs associated with the post implementation review. In response to recommendation 8 of the Finance Committee's Stage 1 report this section provides the costs associated with the Welsh Government's Strategic Implementation Group and associated task and finish groups. I agreed to provide the costs associated with resourcing the activities of the Implementation Group separately, however for the convenience of the Committee, and to enable this expenditure to be seen within the overall context of costs associated with implementation activity I am providing this information in the RIA.
- In response to recommendation 7 of the Finance Committee a new section 'Transitional costs – updating guidance and training' has been added to the RIA to provide a best estimate of costs associated with organisations updating guidance and providing training for their staff.
- The 'Cost summary table' has been updated to take account of additional costs which have been added to the RIA.

Chapter 9 (Specific Impact Assessments)

The integrated impact assessment summary and the annexes relating to Children's rights, Equality and the Welsh Language have been reviewed and will be published on the Welsh Government's website ahead of Stage 3.

Chapter 10 (Post Implementation Review)

This section has been updated to provide further information on the Welsh Government's plans for implementation.

Explanatory Notes

The Explanatory Notes, which accompany the revised EM, reflect the amendments to the Bill made at Stage 2.

Annexes

Annex 4: Potential impacts on individuals and organisations

The following sections have been updated:

- 'Evidence from children' - provides further information from the Ministry of Justice on numbers of active Registered Intermediaries (paragraph 29).
- 'Cafcass Cymru' - further information is provided on Cafcass Cymru's consideration of how to monitor numbers of allegations of parental physical punishment in the context of litigation between separated couples (paragraphs 45 – 47).
- 'Impact on process' - gives the title of the Social Services and Wellbeing (Wales) Act 2014 Part 7 statutory guidance (paragraph 55).

- 'Teachers' safeguarding responsibilities' - provides further information on the duties of teachers to report safeguarding concerns (paragraph 58).

Annex 5: Criminal Records and Disclosure and Barring Service

In the section 'Enhanced checks' further information is provided on the disclosure of non-conviction information, including data relating to enhanced DBS checks (paragraphs 10,11,16,18,19 and 20).

Annex 6: Using New Zealand data as a proxy for estimates in Wales

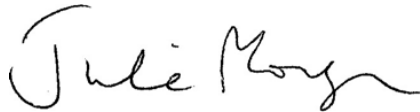
In the section 'Differences in the Legislation in New Zealand and what is proposed in Wales' additional information has been provided on commencement periods in New Zealand and Wales (paragraph 9).

Annex 8: High Level Implementation Work Plan

In response to recommendation 8 of the Finance Committee a new section has been added, which provides information about the main activities of our Strategic Implementation Group and associated task and finish groups. It also covers our plans in relation to awareness raising. This is a living document that may need to evolve as the work around implementation progresses.

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

Yours sincerely



Julie Morgan AC/AM

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services