

## Word version of NSPCC Cymru/ Wales' response to Children Wales Bill

### **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. NSPCC strongly supports this Bill and has long campaigned for the 'defence of reasonable punishment' to be removed to give children equal protection under assault law. Physical punishment is already prohibited in schools and other settings, so this legislation is the next logical step. The evidence is clear that physical punishment is linked to negative outcomes for children, but the law in contrast says it is acceptable. This change will bring welcome clarity for parents and professionals and better protect children.

#### **1.2 Please outline your reasons for your answer to question 1.1**

NSPCC Cymru/Wales welcomes Welsh Government's commitment to making the principles of the UNCRC a reality for all children and young people in Wales, and, now introducing the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill to give children equal protection under assault law. We believe it will achieve the stated aim 'to protect children's rights by prohibiting physical punishment by parents'. The main reasons why NSPCC Cymru/Wales supports this Bill are:

##### Better protect children's rights

Removing the defence of reasonable punishment will help realise and protect children's rights under Article 19 (children are protected from violence and abuse) and Article 37 (children are protected from torture or other cruel, inhuman or degrading treatment or punishment). We believe children should have more rights and protection from assault, not less. This Bill will, if passed, at least provide equality under assault laws for children in Wales.

This legislation will also fulfil Welsh Government's obligation to the Committee on the Rights of the Child (CRC) to prohibit corporal punishment of children in Wales. The CRC urges all nations, to prohibit corporal punishment in all settings, to promote positive parenting and repeal any legal defences. In the CRC's 2016 'Concluding observations' on the UK's progress they state that:

*"the Committee urges the [UK]State party, in all devolved administrations, overseas territories and Crown dependencies, to prohibit as a matter of priority all corporal punishment in the family, including through the repeal of all legal defences, such as "reasonable chastisement".<sup>i</sup>*

##### Contemporary parenting styles

We know that fewer and fewer parents are using physical punishment. NSPCC's 2009 prevalence study 'Child abuse and neglect in the UK today' compared young adult's reported experiences of physical punishment in 2009 with similar research undertaken in 1998 and reported:

*'Smacking on the bottom, hands, arms or legs were commonly reported by young adults in 1998 and 2009'. However, the 2009 sample were considerably less likely to say this happened to them on a regular basis (1998: 10 per cent; 2009: 2.8 per cent).<sup>ii</sup>*

Welsh Government's own research demonstrates that public opinion has further shifted. There has been a significant decrease in the number of adults who agreed 'it is sometimes necessary to smack a

naughty child' and an increase in the number of adults who agreed that there should be a complete ban on parents hitting their children.<sup>iii</sup> The law should keep up with contemporary parenting styles which is one of the reasons NSPCC Cymru/Wales believes that removing the defence of reasonable punishment is the logical next step.

#### Evidence that physical punishment causes children harm

The NSPCC has been active in research, evaluation and in generating evidence that is impactful in improving outcomes for children and their families for many years. In this time, the NSPCC has developed a well-deserved reputation for the robustness of its research and evaluations, and its research governance process (including an externally chaired Research Ethics Committee). Although opponents to this Bill claim the evidence is contested, in our view it is clear: there is overwhelming evidence that physical punishment causes children harm.

NSPCC, in collaboration with other children's organisations in Scotland, commissioned University College London to review the international evidence on physical punishment of children. This review examined 98 articles for in-depth review that were conducted in OECD countries between January 2005 and June 2015. The study found clear evidence that physical punishment is related to detrimental childhood and adult outcomes. The study states that *'there is strong and consistent evidence from good quality research that physical punishment is associated with increased childhood aggression and antisocial behaviour'*. And *'that there is good evidence that that the experience of physical punishment is related to depressive symptoms and anxiety among children'*. The study also concluded that *'the harmful effects of physical punishment were the same even when levels of maternal warmth were high'*.<sup>iv</sup>

In the foreword Professor Sir Michael Marmot concluded *'The international evidence could not be any clearer- physical punishment has the potential to damage children and carries the risk of escalation into physical abuse.'*<sup>v</sup>

A further recent (2016) meta-analysis undertaken by Gershoff and Grogan-Kaylor was published in the American Journal of Family Psychology. It summarises findings from four meta-analyses which conclude that physical punishment is associated with negative child outcomes and is generally ineffective but there were some inconsistencies. She conducted a further focused meta-analysis, including the most recent peer reviewed studies and concluded that there was no evidence that physical punishment was associated with improved child behaviour but that there is increased risk of 13 detrimental outcomes.<sup>vi</sup> The law should reflect this latest evidence and provide families with clear guidance and a framework within which they can parent well and optimise the outcomes of their children.

#### Better protect children

Currently there is no clear boundary between what is a reasonable and lawful punishment and what is not. The current law fails to protect children from painful, dangerous, humiliating or frequent assaults and sends them the message that hitting people is acceptable. It undermines initiatives to reduce domestic violence and violence in society generally as it establishes a narrative that some people can be hit or hurt. As physical punishment is currently legal, it can lead to a delay in offering a family support and guidance and professionals cannot currently deliver clear messages that hitting and hurting children is wrong.

The literature identifies a clear link between physical punishment and child maltreatment. The escalation of physical punishment to injurious abuse and maltreatment is a serious risk.<sup>vii</sup> Currently when professionals see worrying parenting behaviour, it is difficult for them to provide parents with clear advice. If this Bill passes, it will enable professionals to provide clear advice and intervene earlier to prevent child abuse and maltreatment. We believe that this legislative change will help protect children from harm and help stop the escalation from physical punishment to physical abuse. Study of serious care reviews/child practice reviews show that a small number of children die from physical assault. For example, the tragic deaths of Victoria Climbié, Peter Connelly, Daniel Pelka (in England) and Yaseen Ali (in Cardiff) were from physical assault. In our opinion, this legislative change has the potential to save lives and prevent death of children by physical assault in Wales.

#### Children's views

NSPCC consulted with children and young people who have used NSPCC services in north and south Wales. They all supported this legislation, and some of the views expressed were:

'not fair'

'Shouldn't be aloud. I feel upset, horrible, angry, horrified'

'It is not right. Physically abusing an adult get the other adult punished, but physically abusing a child could have a worsser affect in the long run'

'Everybody should be treated the same!!'

'Unreasonable as they still have feelings'

'It's wrong and it's not right to assault another person'

'I fear for my own safety and others with this law in place I'll feel more secure.'

### **1.3 Do you think there is a need for legislation to deliver what this Bill is trying to achieve?**

Yes. This legal change is part of, and consistent with, the prevention and early intervention principles contained in the Social Services and Wellbeing and Future Generations Acts. It sends out a message to the world that Wales is ambitious for its children, it values and protects them and is prepared to lead the way in the UK.

For many years Welsh Government and professionals who work with families have successfully promoted positive non-violent parenting which has contributed to the reduction in the number of parents who use physical punishment. However, despite the significant change in parental attitudes to physical punishment, some children are still subjected to it. The international research is now clear that 'physical punishment has the potential to damage children'<sup>viii</sup> and it is time that all UK governments acted to protect all their citizens from the risks that physical punishment can do to health and wellbeing. The Welsh Government have already prohibited physical punishment in schools and in care and

early years settings, so acting to remove the defence of reasonable punishment is the next logical step to protect children from all physical punishment. Evidence from a review of the relationship between legislative change and parental attitudes to physical punishment in the 24 countries that had banned physical punishment in 2009, found that 'legislation reinforced and accelerated the declines in the prevalence of physical punishment'.<sup>ix</sup> As Welsh Government want to protect all their citizens from physical punishment, the evidence demonstrates that it is vital to make this legislative change which will lead to a further decline in the use of physical punishment.

The current law is ambiguous and unclear. The defence of reasonable punishment permits parents to use an arbitrary level of violence on their children which can result in injury and, in a small minority of cases, escalate into physical abuse. As stated in the previous answer, it fails to protect children from assaults, there can be a delay in offering guidance or support which can put children at risk if physical punishment escalates and professionals working with families are unable to deliver clear messages that hitting and hurting children is wrong as the law still says it is acceptable. Making this legislative change will provide clarity to parents, children and professionals and better protect children.

As stated in the previous answer, this legislation will fulfil Welsh Government's obligation to the Committee on the Rights of the Child (CRC) to prohibit corporal punishment of children in Wales. The UNCRC and other human rights instruments place an obligation on all ratifying states to protect all their citizens from physical punishment and other cruel and degrading treatment. Welsh Government formally adopted the United Nations Convention on the Rights of the Child (UNCRC) in 2004 and this legislative change will fulfil the CRC's recommended priority to prohibit all corporal punishment of children.

## **2 The Bill's implementation**

### **2.1 Do you have any comments about any potential barriers to implementing the Bill?**

The Explanatory Memorandum details the research and engagement undertaken with bodies who will be responsible for implementing the Bill and we do not see any other barriers to implementation.

As the Explanatory Memorandum makes clear, the Government intend to provide information and support for parents. This we believe is vital and we support the proposals for sustained public awareness campaign.

We also want the Government to ensure that there is continued online and practical help available to help parents change to positive parenting methods. Besides the cost of the public awareness campaign, we believe the practical support can be provided through current services, such as GPs and Health Visitors, and the programmes such as Families First and Flying Start.

## **2.2 Do you think the Bill takes account of these potential barriers?**

Yes

## **2 Unintended consequences**

### **3.1 Do you think there are there any unintended consequences arising from the Bill? If no, go to question 4.1**

No. As the Explanatory Memorandum explains, criminalisation of parents is not the aim of the Bill. The Bill does not create a new offence, but simply removes a defence, and the thresholds for intervention by police and social services will not change. Police and courts already prosecute parents for assault and doing so must be because it is necessary to protect the child. Accusations of assault against a child are likely to be investigated by police and social services exactly as they are now and the thresholds for intervention will not change. Following law reform, any parent or carer suspected of assaulting a child will no longer be able to defend themselves by claiming they were carrying out a “reasonable punishment”.

John McKenzie, Chief Superintendent of Police in Scotland said when providing evidence on the similar Bill in Scotland that: *‘The bill aims to remove the statutory defence of justifiable assault, and I cannot see how that, in itself, would criminalise parents. We have an opportunity to communicate more widely with parents and to highlight the values of Scotland and organisations here as well as our hopes for the children of Scotland. I do not believe that there is any evidence of parents having been criminalised in other countries that have gone down this legislative route.’*<sup>x</sup>

In fact, widespread criminalisation of parents has not been an effect in the other countries who have passed similar legislation. New Zealand was the first English-speaking country to ban all forms of physical punishment, in 2007, and due to public anxieties, state organisations carefully monitored amount and responses to cases of parental physical punishment. Regular police reports to the government show that there have been just 8 prosecutions between 2007 and 2012.<sup>xi</sup> In November 2009 the Chief Executive of the Ministry for Social Development and Employment reported to the Minister that the police data showed that, although there had been a rise in the reporting of violence generally, parents had not been prosecuted for “light smacking.” He comments that the police believe that the new law “has had a minimal impact on their business” and there has been no change in the reporting of smacking since the law was enacted.<sup>xii</sup>

## **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)?**

NSPCC strongly believes that this change will help protect children from harm and the initial costs will be offset by savings in late intervention costs in future years.

As less and less parents use physical punishment there will be fewer negative outcomes for children and it will stop cases of physical punishment escalating into physical abuse. It is important to remember that physical abuse is not a small problem in Wales. It is an adverse childhood experience (ACE) and the Public Health Wales research into ACEs found that 17% of adults grew up with physical abuse in their childhoods.<sup>xiii</sup> Growing up with ACEs results in health harming behaviour and increased financial cost in late intervention services.

Figures obtained by the NSPCC from the Early Intervention Foundation found that the overall financial cost of late intervention with children and young people to Wales was £1.15bn in 2014/15. Investing in messages which promote positive, non-violent discipline, would, in our view have a beneficial impact on the amount that is spent on remedial action in cases where physical punishment has gone wrong.

## 5 Other considerations

### 5.1 Do you have any other points you wish to raise about this Bill?

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<sup>i</sup> <http://www.crae.org.uk/publications-resources/un-crc-committees-concluding-observations-2016/>

<sup>ii</sup> Radford, L. et al. (2011) *Child abuse and neglect in the UK today*. London: NSPCC

<sup>iii</sup> <http://www.assembly.wales/laid%20documents/pri-ld12454-em/pri-ld12454-em-e.pdf>

<sup>iv</sup> Heilmann A., Kelly Y., Watt, R. (2015) Equally protected? A review of the evidence on the physical punishment of children <https://www.nspcc.org.uk/services-and-resources/research-and-resources/2015/equally-protected/>

<sup>v</sup> *ibid*

<sup>vi</sup> <https://www.ncbi.nlm.nih.gov/pubmed/27055181>

<sup>vii</sup> Heilmann A., Kelly Y., Watt, R. (2015) Equally protected? A review of the evidence on the physical punishment of children <https://www.nspcc.org.uk/services-and-resources/research-and-resources/2015/equally-protected/>

<sup>viii</sup> *ibid*

<sup>ix</sup> *ibid*

<sup>x</sup> <http://www.parliament.scot/parliamentarybusiness/report.aspx?r=12019>

<sup>xi</sup> <http://www.police.govt.nz/sites/default/files/resources/10-review-section-59.pdf>

<sup>xii</sup> Hughes P, Chief Executive Ministry of Social Development (2009) Report to the Minister for Social Development and Employment: pursuant to section 7(2) of the Crimes (substituted section 59) Act, New Zealand Ministry of Social Development

<sup>xiii</sup> <http://www.wales.nhs.uk/sitesplus/888/news/40000>