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Believe in  
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Barnardo's  
Cymru

**Written evidence to the Children, Young People and Education Committee Stage 1 scrutiny of the Children (Abolition of Defence of Reasonable Punishment) (Wales) Bill**

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**This response may be made public**

## **Introduction**

Barnardo's Cymru has been working with children, young people and families in Wales for over 100 years and is one of the largest children's charities working in the country. We currently run 86 diverse services across Wales, working in partnership with 16 of the 22 local authorities. Last year we worked with over 7,000 children, young people and family members.

Barnardo's Cymru have been active supporters of the campaign to remove the defence of reasonable punishment and urge all Assembly Members to take this opportunity to lead the change.

## **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**

*"I was just thinking that...if they changed the law then a lot of people will realise what they had done to their child and they would probably...be happy that the law was changed. If they don't change the law they will think 'oh well, the child doesn't mind so we can keep on doing it'. But if they realise that children have been talking to adults about it then I think they will definitely realise that it hurts their child and they will be very upset with themselves." (seven year old girl)<sup>1</sup>*

The seven year old child quoted from 2004 will now be in her mid-twenties and has not seen the simple logic and clarity in her argument realised in changes to the law.

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<sup>1</sup> Save the Children 2004 <http://www.crae.org.uk/media/26377/it-hurts-inside-summary-report.pdf>

It is the view of Barnardo's Cymru that the Bill presents the best opportunity to remove the striking anomaly that affords more protection in law for adults, generally the least vulnerable than there is for children who are amongst the most vulnerable.

Barnardo's Cymru supports both the principles and the clear unequivocal nature of the Bill and believe it should achieve the desired outcomes. As a significant provider of family support services we believe it will also aid in the delivery of positive parenting options for a number of reasons.

1. It will not create a new offence but remove a defence that is not available in other offences of violence against a person.
2. It will make the situation clear; what is right and appropriate and what is wrong and inappropriate.
3. The continuing availability of the defence has been repeatedly criticised by the UN Committee on the Rights of the Child as not protective of children's human rights. While the UN Convention on the Rights of the Child speak specifically to children's human rights, the continuing defence of reasonable punishment would be seen as not protective of human rights described in the Universal Declaration of Human Rights, which apply universally regardless of status. A message echoed by campaigners in Wales. The human rights enshrined in these documents are unqualified and therefore preeminent when considering qualified rights.
4. The most robustly reviewed research is described as unequivocal in highlighting the harm done to children through the use of physical punishment.<sup>2</sup>
5. The research also highlights that physical punishment is less effective in creating proper frameworks and boundaries supporting behavioural expectations.
6. It is the experience of our family support staff that eliminating the use of physical punishment brings significant benefits to families; enhancing warm, nurturing supportive parenting with strengthened attachment and improved long term relationships. When asked anonymously for a previous consultation in 2018, 97% of the responding Barnardo's Cymru staff from across functions, including none service provision, were wholly supportive of a change in the legislation.
7. The Bill is written in a way that does not suggest normal, caring physical and protective contact should be seen as illegal or inappropriate.
8. While we agree that current use of physical punishment does not inevitably lead to abuse, the use of physical punishment did feature

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<sup>2</sup>[https://www.researchgate.net/publication/299992592\\_Spanking\\_and\\_Child\\_Outcomes\\_Old\\_Contentiousness\\_and\\_New\\_Meta-Analyses](https://www.researchgate.net/publication/299992592_Spanking_and_Child_Outcomes_Old_Contentiousness_and_New_Meta-Analyses)).

in the most high profile of known serious abuse cases. In the majority of these cases the lack of clarity often led to neighbours, family members, friends and even professionals unsure about what to report.

9. The Bill will be in step with public opinion. Both the use of and attitudes towards physical punishment has been changing. There is diminishing support for, and use of, physical punishment however there is still a distance to go. The Bill will provide significant leadership by Government and the Assembly indicating the fair, equitable rights respecting society we wish to become.

*"I think it is about time to change the law as we need to deliver the message that it is not acceptable to use violence against children. Children will be better protected and by offering different parenting strategies, the benefit will be happier, healthier, better behaved children. That benefit will be passed to the next generation"*  
(Barnardo's Cymru staff member, 2018)

*"How does hitting your child benefit your child? It is violence and abusive and NOT OK. Get rid of the law allowing this."* (Young person using Barnardo's Cymru services, 2018)

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

#### **YES**

This Bill represents the simplest means of changing the law removing the defence of reasonable punishment.

We as a nation have previous experience of seeking a change in public attitude and societal expectation and boundaries. In achieving these changes, such as smoking in public places, in cars with children and wearing seat belts, changes in the law were necessary to embed the significance and common-sense of the changes. While many counter arguments were made to these changes at the time, very few people now see the validity in those arguments.

Those changes in the law set the standard as it will in this case.

As stated, it is our view that the unequivocal nature of the Bill will achieve the desired outcome by the simplest route possible.

We have listened to and read with interest arguments that the law as it currently stands is adequate. It is the view of Barnardo's Cymru that the

law as it stands is inadequate sometimes evidently failing in the protection of children.

Under the law currently:

- Physical punishment has featured in headline serious abuse cases that have led to significant public outcry.
- Children's personal integrity is compromised by virtue of their age and status.
- An individual's human rights are compromised, and
  - States might be seen as knowingly complicit in this violation.
- Confusion leads to situations where some violence as punishment appears acceptable even deserved and a valid means of resolving disagreement.
- While there is much action against domestic violence there is allowed violence in domestic situations.
- Violent responses are learnt.
- The inherent vulnerability of children is compounded by the lack of clarity around physical punishment.
- Age and status dictates your expectation of protection under the law from violence.

*"I am in full agreement. If I smacked or hit an adult I would be prosecuted for assault – how on earth have we got away with doing this to our children for so long?" (Barnardo's Cymru staff member, 2018)*

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

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

The value of any legislation lies in the effectiveness of implementation. As this is a long standing issue, the Welsh Government have made great and effective strides in providing positive parenting support. It will be the work of the implementation group to ensure that this develops and improves further still.

The strength of the Welsh Government developments to date have been the non-judgmental, accessible, resource based nature of their approach which needs to continue as a theme.

The most significant challenge for the implementation group is likely to be getting the balance of the public awareness campaigns pitched effectively. Simple clear messages about what the change means for every family in Wales; eliminating the ground for misinformation and malicious

campaigning and promoting the positive nature of the change for families their children and Welsh children of the future.

Barnardo's Cymru see a significant role for ourselves and third sector colleagues not only in facilitating the continuing resource development but most significantly in any public awareness and education initiative.

*"I would be incredibly proud to live in a country that provides equal protection in law to the most vulnerable members of our society."  
(Barnardo's Cymru staff member, 2018)*

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

What we consider in 2.1 are not necessarily barriers but considerations for implementation. We do not seek to make any changes on the face of the Bill as we welcome the clarity of it as tabled.

We do however recognise the importance of the implementation group in embedding the legislation.

We note that some questions have been raised as to the placing of a duty to inform the public on the face of the Bill. Barnardo's Cymru would suggest that the simplicity of the Bill should be protected with additional statutory function described in subordinate legislation.

## **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**

NO.

Barnardo's Cymru fully accepts that the removal of a defence might lead to prosecutions as an expected consequence. We believe that where a situation of violence leads to a legal process and possibly conviction then this, as in the case of an adult, is the proper conclusion.

We do not agree with any supposition that the removal of the defence will lead to the enormous numbers of criminalised parents suggested in some contrary positions. Barnardo's Cymru further believes that the focus on empowering implementation will further address any such fear.

## **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)?**

The assessment provided in the Explanatory Memorandum is helpful but would suggest a worst case scenario amount which is unable to include predictions of long term cost savings from early interventions.

If considering possible cost implications for additional interventions or investigations for Social Services, Health, Police and CPS; we should be able to suggest that complaint and investigation leads to earlier intervention. Consequently we should also consider the probable savings from later, usually more complex, interventions. Figures already supplied to the committee sourced from the Early Intervention Foundation put the overall cost in Wales of late interventions for 2014/15 at £1.15 bn.

We are now very familiar with the effects of Adverse Childhood Experiences (ACEs) in Wales and accept that reducing ACEs for children improve their outcomes through childhood into adulthood. The presence of violence in families is an adverse experience that needs addressing.

Barnardo's Cymru experience suggests that removing the defence while providing positive alternatives can only lead to long term savings for society more widely.

*"Totally agree [with the changes in the law] but more support will be needed. Especially as they're taking away a lot of early year's services." (Parent using Barnardo's Cymru services, 2018)*

## **5 Other considerations**

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

Barnardo's Cymru welcomes the Bill and what it represents for children, families and Welsh society.

The Bill as tabled, in our opinion, is the simple pragmatic solution required to deliver such a positive change.

Positive for the protection and promotion of human rights; positive in ensuring greater protection for our children and their futures and positive in supporting parents to provide loving, caring relationships free from the fear of violence.