

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

Are you submitting this response in a professional or a personal capacity

Professional

About you/your organisation

As you are responding in a professional capacity, are you responding on behalf of an organisation?

Yes

Organisation

Humanists UK

Please provide the information below:

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Do you wish to receive email updates on the Bill's progress

Yes, please

In which language(s) are you submitting?

I am submitting in English only

General Principles of the Bill

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 1,000 words)

We think that the defence of 'reasonable punishment' should be abolished first and foremost because it is wrong to hit a child. It is wrong to hit an adult as there is never a legitimate justification for doing so. It is even more wrong to hit a child, because children are not just human beings, like other adults, but are particularly vulnerable ones. This makes physical punishment of children especially cruel.

The United Nations Committee on the Rights of the Child recognises that any physical punishment of children, however minor, is incompatible with the human rights of children under the United Nations Convention on the Rights of the Child (UNCRC) Article 19, and has called for it to be abolished. It has issued a general comment to highlight its recognition of the right of the child to respect of their human dignity, physical integrity and equal protection under the law and is unequivocal on the point:

'There is no ambiguity: "all forms of physical or mental violence" does not leave room for any level of legalised violence against children.'

Children have the right to be protected from physical punishment and the removal of reasonable punishment as a defence will ensure that right is recognised in law.

By suggesting that there are circumstances in which it is justifiable to deliberately cause pain to a child or young person, the existing law sends a confusing message that is at odds with the law relating to interactions between adults. Indeed, it actively undermines the message of the law relating to domestic violence, which is based on the principle that attempting to control another person by hitting or hurting them is never acceptable.

International research demonstrates that countries where the physical punishment of children is banned tend to be less violent, and there is a great deal of evidence – much of it outlined in the case for change section of the Welsh Government's own legislative proposal on the matter – to support the view that physical punishment is both ineffective and is likely to have a negative effect on the mental health and wellbeing of children and young people. This is one reason why violence is listed a key 'adverse childhood experience' (ACE). There is also evidence that abusive parents are more likely to use physical punishment such as smacking ('spanking'), it is possible that this is the result of an escalation in the type of punishment such parents mete out to their children, or because the law is ambiguous with respect to when 'reasonable punishment' becomes sufficiently harsh to count as abuse. Either way, a law which prevents physical punishment of any kind could both help to identify families at risk of escalation into serious abuse and communicate a clear position for those who are not sure of the difference between punishment and abuse.

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 1,000 words)

Yes. The law needs to be clear that children have the same rights protecting them from harm as adults. Any person inflicting injury on a child must know they face consequences under the law and there is no possible defence suggesting it was in the child's interest to be punished.

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 1,000 words)

The explanatory memorandum sections 3.57 to 3.66 sets out the clear steps required to support implementation of the Bill and we support the need for a publicity campaign explaining the Bill, as well as additional parental support to understand and implement the changes through schemes such as Flying Start.

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 1,000 words)

Yes

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 1,000 words)

No. Campaign groups in favour of 'reasonable punishment' maintain that the Bill threatens to criminalise 'ordinary' parents and risks flooding police and social workers with 'trivial cases leaving them struggling to stop genuine child abuse.' But there is no evidence to support either of these claims.

As the UN Committee on the Rights of the Child points out in its general comment on the issue, there is a clear distinction between 'a protective physical action and a punitive assault', meaning that, in the vast majority of cases parents, law enforcement, and those who work in children's services will be able to tell the difference between reasonable physical interventions that are designed to keep children safe and acts of punishment. What's more, as noted in a 2015 report by researchers from University College London and commissioned by the NSPCC Scotland, Children 1st, Barnardo's Scotland, and the Children and Young People's Commissioner Scotland, the majority of studies that tested the hypothesis that 'physical punishment is not harmful in the context of an otherwise loving and warm family environment' found that 'the harmful effects of physical punishment were the same even when levels of maternal warmth were high.' This suggests the view that there is such a thing as a 'trivial' case of punishment is extremely overstated.

Further, since the defence of 'reasonable punishment' is relatively rare – a fact noted in paragraph 3.17 of the explanatory memorandum – it is unlikely that its abolition will lead to a sudden slew of cases that might previously have drawn on it. Rather, it seems reasonable to expect that it will merely encourage parents to think about other, more effective, methods by which to manage the behaviour of their children which also respect their human rights.

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 1,000 words)

Although this fall somewhat outside of our expertise, we assume there will be some financial costs associated with publicising the changes, as well as providing additional support for families, police, and those who work with children. However, these will be relatively small, and certainly worth it when weighed against the social cost of inaction in this area, as well as the potential harms to individual children caused by 'reasonable punishment'.

Given the evidence noted in our response to question 1.1, we think that the benefits of implementing the policy will outweigh any minor financial costs incurred.

General Principles of the Bill

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 1,000 words)

About Humanists UK

At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, we are trusted to promote humanism by over 85,000 members and supporters and over 100 members of the All Party Parliamentary Humanist Group. Through our ceremonies, pastoral support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

We have a long history of work in education, children's rights and equality, with expertise in the 'religion or belief' strand. We have been involved in policy development around the children's rights for over 60 years. We also provide materials and advice to parents, governors, students, teachers and academics, for example through our Understanding Humanism website (<https://understandinghumanism.org.uk/>) and our school speakers programme.

We are firmly committed to the protection and promotion of human rights, as exemplified in documents such as the Universal Declaration of Human Rights and the United Nations Convention on the Rights of the Child. These rights represent shared values rooted in our common humanity and our shared human needs, transcending particular cultural and religious traditions. This regard for human rights and for the equal dignity of all human beings underpins many of our policies.

Humanist principles of justice and of valuing the dignity of each individual also lead us to support equality and oppose unwarranted discrimination. Humanists have been deeply involved in campaigning against discrimination – from homophobia to racism – for decades. Humanists have also been in the forefront of developing modern ideas of human rights, and have been prominent human rights defenders.